



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket Nos. 17-134; FCC 17-62]

Assessment and Collection of Regulatory Fees for Fiscal Year 2017.

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Federal Communications Commission (Commission) will revise its Schedule of Regulatory Fees in order to recover an amount of \$356,710,992 that Congress has required the Commission to collect for fiscal year 2017, as amended, provides for the annual assessment and collection of regulatory fees under and respectively, for annual "Mandatory Adjustments" and "Permitted Amendments" to the Schedule of Regulatory Fees.

DATES: Submit comments on or before June 22, 2017, and reply comments on or before July 7, 2017.

ADDRESSES: You may submit comments, identified by MD Docket No. 17-134, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: <http://www.fcc.gov/cgb/ecfs>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.
- E-mail: ecfs@fcc.gov. Include MD Docket No. 15-121 in the subject line of the message.
- Mail: Commercial overnight mail (other than U.S. Postal Service Express Mail, and Priority Mail, must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-

class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington D.C. 20554.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Roland Helvajian, Office of Managing Director at (202) 418-0444.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), FCC 17-62, MD Docket No. 17-134 adopted on May 22, 2017 and released on May 23, 2017. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Room CY-A257, Portals II, Washington, DC 20554, and may also be purchased from the Commission's copy contractor, BCPI, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI, Inc. via their Web site, <http://www.bcpi.com>, or call 1-800-378-3160. This document is available in alternative formats (computer diskette, large print, audio record, and braille). Persons with disabilities who need documents in these formats may contact the FCC by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

I. PROCEDURAL MATTERS

A. Ex Parte Rules Permit-But-Disclose Proceeding

1. This Notice of Proposed Rulemaking (FY 2017 NPRM) shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and summarize all data presented and arguments made during

the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with section 1.1206(b). In proceedings governed by section 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

B. Comment Filing Procedures

2. Comments and Replies. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this

proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

3. Availability of Documents. Comments, reply comments, and ex parte submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW, CY-A257, Washington, DC 20554. These documents will also be available free online, via ECFS. Documents will be available electronically in ASCII, Word, and/or Adobe Acrobat.

4. Accessibility Information. To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to fcc504@fcc.gov or call the

Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document can also be downloaded in Word and Portable Document Format ("PDF") at: <http://www.fcc.gov>.

C. Initial Regulatory Flexibility Analysis

5. An initial regulatory flexibility analysis (IRFA) is contained in this summary. Comments to the IRFA must be identified as responses to the IRFA and filed by the deadlines for comments on the Notice. The Commission will send a copy of the Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

D. Initial Paperwork Reduction Act of 1995 Analysis

6. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

II. INTRODUCTION

7. In this Notice of Proposed Rulemaking, we seek comment on the Commission's proposed regulatory fees for fiscal year (FY) 2017. We propose to collect \$356,710,992 in regulatory fees for FY 2017, as detailed in the proposed fee schedules attached in Table 4.

III. BACKGROUND

8. The Commission is required by Congress to assess regulatory fees each year in an amount that can reasonably be expected to equal the amount of its appropriation.¹ Regulatory fees, mandated by Congress, are collected "to recover the costs of ... enforcement activities, policy and

¹ 47 U.S.C. 159(b)(1)(B). The Commission collected \$4.25 million above the required regulatory fee target goal in FY 2016, which the Commission deposited into the U.S. Treasury. The cumulative overcollection is \$102.62 million as of September 30, 2016.

rulemaking activities, user information services, and international activities.”² Regulatory fees are to “be derived by determining the full-time equivalent number of employees performing” these activities, “adjusted to take into account factors that are reasonably related to the benefits provided to the payer of the fee by the Commission’s activities....”³ Regulatory fees recover direct costs, such as salary and expenses; indirect costs, such as overhead functions; and support costs, such as rent, utilities, or equipment.⁴ Regulatory fees also cover the costs incurred in regulating entities that are statutorily exempt from paying regulatory fees,⁵ entities whose regulatory fees are waived,⁶ and entities providing services for which we do not assess regulatory fees.

9. Congress sets the amount the Commission must collect each year in the Commission’s fiscal year appropriations. Section 9(a)(2) of the Communications Act of 1934, as amended (Communications Act or Act) requires the Commission to collect fees sufficient to offset the amount appropriated.⁷ To calculate regulatory fees, the Commission allocates the total collection target across all regulatory fee categories. The allocation of fees to fee categories is based on the Commission’s calculation of Full Time Employees (or FTEs) in each regulatory fee category.⁸ FTEs are classified as “direct” if the employee is in one of the four “core” bureaus; otherwise, that employee is considered an “indirect” FTE.⁹ The total FTEs for each fee category includes the direct FTEs associated with that

² 47 U.S.C. 159(a).

³ 47 U.S.C. 159(b)(1)(A).

⁴ Assessment and Collection of Regulatory Fees for Fiscal Year 2004, Report and Order, 19 FCC Rcd 11662, 11666, para. 11 (2004) (FY 2004 Report and Order).

⁵ For example, governmental and nonprofit entities are exempt from regulatory fees under section 9(h). 47 U.S.C. 159(h); 47 CFR 1.1162.

⁶ 47 CFR 1.1166.

⁷ 47 U.S.C. 159(a)(2).

⁸ One FTE is a unit of measure equal to the work performed annually by a full time person (working a 40 hour workweek for a full year) assigned to the particular job, and subject to agency personnel staffing limitations established by the U.S. Office of Management and Budget.

⁹ The core bureaus are the Wireline Competition Bureau, Wireless Telecommunications Bureau, Media Bureau, and part of the International Bureau. The indirect FTEs are the employees from the following bureaus and offices: Enforcement Bureau, Consumer & Governmental Affairs Bureau, Public Safety and Homeland Security Bureau, part of the International Bureau, Chairman and Commissioners’ offices, Office of the Managing Director, Office of

(continued....)

category, plus a proportional allocation of indirect FTEs.¹⁰ The Commission then allocates the total amount to be collected among the various regulatory fee categories within each of the core bureaus. Each regulatee within a fee category pays its proportionate share based on an objective measure, e.g., revenues or number of subscribers.¹¹

10. The Commission annually reviews the regulatory fee schedule, proposes changes to the schedule to reflect changes in the amount of its appropriation, and proposes increases or decreases to the schedule of regulatory fees.¹² The Commission will make changes to the regulatory fee schedule “if the Commission determines that the schedule requires amendment to comply with the requirements”¹³ of section 9(b)(1)(A) of the Act.¹⁴ The Commission may also add, delete, or reclassify services in the fee schedule to reflect additions, deletions, or changes in the nature of its services “as a consequence of Commission rulemaking proceedings or changes in law.”¹⁵

11. As part of its annual review, the Commission regularly seeks to improve its regulatory fee analysis. For example, in the FY 2013 Report and Order, the Commission adopted updated FTE allocations to more accurately reflect the number of FTEs working on regulation and oversight of the regulatees in the various fee categories;¹⁶ reallocated some FTEs from the International Bureau as

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General Counsel, Office of the Inspector General, Office of Communications Business Opportunities, Office of Engineering and Technology, Office of Legislative Affairs, Office of Strategic Planning and Policy Analysis, Office of Workplace Diversity, Office of Media Relations, and Office of Administrative Law Judges

¹⁰ The Commission observed in the FY 2013 Report and Order that “the high percentage of the indirect FTEs is indicative of the fact that many Commission activities and costs are not limited to a particular fee category and instead benefit the Commission as a whole.” See Assessment and Collection of Regulatory Fees for Fiscal Year 2013, Report and Order, 28 FCC Rcd 12351, 12357, para. 17 (2013) (FY 2013 Report and Order).

¹¹ See Procedures for Assessment and Collection of Regulatory Fees, Notice of Proposed Rulemaking, 27 FCC Rcd 8458, 8461 through 62, paras. 8 through 11 (2012) (FY 2012 NPRM).

¹² 47 U.S.C. 159(b)(1)(B).

¹³ 47 U.S.C. 159(b)(2).

¹⁴ 47 U.S.C. 159(b)(1)(A).

¹⁵ 47 U.S.C. 159(b)(3).

¹⁶ FY 2013 Report and Order, 28 FCC Rcd at 12354-58, paras. 10-20. The Commission now updates the FTE allocations annually. This was recommended in a report issued by the Government Accountability Office (GAO) in 2012. See GAO “Federal Communications Commission Regulatory Fee Process Needs to be Updated,” GAO-12-686 (August 2012) (GAO Report) at 36 (available at <http://www.gao.gov/products/GAO-12-686>).

indirect;¹⁷ combined the UHF and VHF television stations into one regulatory fee category;¹⁸ and added Internet Protocol Television (IPTV) to the cable television regulatory fee category.¹⁹ Subsequently, in the FY 2014 Report and Order, the Commission adopted a new regulatory fee subcategory for toll free numbers within the Interstate Telecommunications Service Provider (ITSP)²⁰ category;²¹ increased the de minimis threshold to \$500 for annual regulatory fee payors;²² and eliminated several categories from the regulatory fee schedule.²³ In the FY 2015 NPRM, the Commission adjusted regulatory fees for radio and television broadcasters, based on the type and class of service and on the population served;²⁴ adopted an increase in the regulatory fee for Direct Broadcast Satellite (DBS) providers in the subcategory within the cable television and IPTV regulatory fee category;²⁵ and adopted an across the board fee increase for the Commission's moving expenses.²⁶

IV. DISCUSSION

12. The Commission proposes to collect \$356,710,992 in regulatory fees for FY 2017,²⁷

¹⁷ FY 2013 Report and Order, 28 FCC Rcd at 12355 through 58, paras. 13 through 20.

¹⁸ Id., 28 FCC Rcd at 12361 through 62, paras. 29 through 31.

¹⁹ Id., 28 FCC Rcd at 12362-63, paras. 32-33.

²⁰ The ITSP category includes interexchange carriers (IXCs), incumbent local exchange carriers, toll resellers, and other IXC service providers.

²¹ Assessment and Collection of Regulatory Fees for Fiscal Year 2014, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 10767, 10777 through 79, paras. 25 through 28 (2014) (FY 2014 Report and Order).

²² FY 2014 Report and Order, 29 FCC Rcd at 10774 through 76, paras. 18 through 21.

²³ Id., 29 FCC Rcd at 10776-77, paras. 22 through 24.

²⁴ Assessment and Collection of Regulatory Fees for Fiscal Year 2016, Report and Order, 31 FCC Rcd 10339, 10350-51, paras. 31 through 33 (2016) (FY 2016 Report and Order).

²⁵ FY 2016 Report and Order, 31 FCC Rcd at 10347-350, paras. 25-30.

²⁶ Id., 31 FCC Rcd at 10341, para. 7.

²⁷ See Consolidated Appropriations Act, 2017, Division E - Financial Services and General Government Appropriations Act, 2017, Title V - Independent Agencies, Public Law 115-31 (May 5, 2017), available at <https://www.congress.gov/bill/115th-congress/house-bill/244/text>. This provides the Commission with \$356,710,992 for salaries and expenses, to be raised through section 9 regulatory fees, of which \$16,866,992 is directed to be spent on completing the Commission's move and/or restacking.

pursuant to section 9 of the Communications Act.²⁸ These regulatory fees are mandated by Congress and are collected “to recover the costs of . . . enforcement activities, policy and rulemaking activities, user information services, and international activities.”²⁹ We seek comment on the proposed regulatory fee schedule in Table 4.

A. Allocating FTEs for Regulatory Fee Purposes

13. Under section 9 of the Act, regulatory fees are to “be derived by determining the full-time equivalent number of employees performing” these activities, “adjusted to take into account factors that are reasonably related to the benefits provided to the payer of the fee by the Commission’s activities”³⁰ As a general matter, we reasonably expect that the work of the FTEs in the core bureaus should remain focused on the industry segment regulated by each of those bureaus. The work of the FTEs in the indirect bureaus and offices benefits the Commission and the telecommunications industry and is not specifically focused on the licensees of a particular core bureau. Given the significant implications of reassignment of FTEs in our fee calculation, we make changes to FTE classifications only after performing considerable analysis and finding the clearest case for reassignment.³¹ For example, the Commission in the FY 2016 Report and Order declined to combine the regulatory fee categories for CMRS and ITSP categories, finding that doing so would not account for the substantial differences between the services in terms of regulatory oversight by the two bureaus.³²

14. The Commission has 1,431 FTEs funded by regulatory fees, of which 424 are currently direct FTEs.³³ Of these, 167 would be allocated to Wireline Competition Bureau regulatees, 141 would

²⁸ 47 U.S.C. 159.

²⁹ 47 U.S.C. 159(a).

³⁰ 47 U.S.C. 159(b)(1)(A).

³¹ FY 2013 Report and Order, 28 FCC Rcd at 12357, para. 19. The Commission observed that the International Bureau was a “singular case” because the work of those FTEs “primarily benefits licensees regulated by other bureaus.” Id., 28 FCC Rcd at 12355, para. 14.

³² FY 2016 Report and Order, 31 FCC Rcd at 10346-47, para. 22.

³³ All numbers in this paragraph are for the current fiscal year (starting October 1, 2016) and exclude auction-funded FTEs.

be allocated to Media Bureau regulatees, 92 would be allocated to Wireless Telecommunications Bureau regulatees, and 24 would be allocated to International Bureau regulatees.³⁴ As explained below, we propose to reallocate 38 FTEs associated with Universal Service Fund work as indirect and to reallocate four FTEs that work on wireless numbering issues to the Wireless Telecommunications Bureau. As a result of this proposed reallocation, we project that we would collect approximately 32.38 percent of regulatory fees (or \$115.5 million) from Wireline Competition Bureau regulatees, 36.53 percent of regulatory fees (or \$130.3 million) from Media Bureau regulatees, 24.87 percent of regulatory fees (or \$88.7 million) from Wireless Telecommunications Bureau regulatees, and 6.22 percent of regulatory fees (or \$22.2 million) from International Bureau regulatees.

1. Reallocating FTEs Associated with the Universal Service Fund

15. We believe that continuing changes to the USF regulatory landscape requires us to reexamine the appropriateness of treating Universal Service Fund FTEs as direct FTEs. To start, we estimate that there are approximately 51 FTEs in the Wireline Competition Bureau, including the bureau front office, devoted to the Universal Service Fund, with 13 of those FTEs devoted to the high-cost program. We also estimate that there are approximately 3 FTEs in the Wireless Telecommunications Bureau, including the bureau front office, devoted to implementing the Mobility Fund, a universal service high-cost support mechanism devoted exclusively to mobile services.³⁵ We note that other FTEs throughout the Commission working on universal service issues are assigned as indirect FTEs. This includes the many FTEs working on universal service issues in the Enforcement Bureau, the Office of the Managing Director, the Office of the Inspector General, and the Office of the General Counsel.

16. We propose to “adjust[]” the allocation of these direct FTEs “to take into account factors that are reasonably related to the benefits provided to the payer of the fee by the Commission’s

³⁴ This includes space stations, earth stations, and submarine cable, terrestrial, and satellite international bearer circuits (IBCs).

³⁵ See Connect America Fund, et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011).

activities”³⁶ Specifically, we propose to reallocate the 38 FTEs associated with the non-high-cost programs of the Universal Service Fund as indirect. First, we note that contributions to the Universal Service Fund are not only required from Wireline Competition Bureau regulatees but every provider using any technology that has end-user interstate telecommunications revenue is required to contribute to the Universal Service Fund.³⁷ Second, we note that three of the distribution programs—E-Rate, Lifeline, and Rural Healthcare—tie funding eligibility to the beneficiary, whether it be a school, a library, a low-income individual or family, or a rural healthcare provider. None of these beneficiaries are Commission regulatees. Third, we note that wireless carriers now serve a substantial, if not majority, of Lifeline subscribers, and satellite operators, Wi-Fi network installers, and fiber builders may all receive funding through the E-Rate and Rural Healthcare programs. Fourth, we note that treating these FTEs as indirect would be more consistent with how FTEs working on universal service issues are treated elsewhere in the Commission. We seek comment on this proposal. We specifically seek comment on whether the statute requires us to impose regulatory fees on the regulatees of a single bureau even though the benefits provided by those FTEs accrue to regulatees of other bureaus as well as non-regulatees.

17. We also seek comment on alternatives. Although the high-cost program has historically been tied to Wireline Competition Bureau regulatees, the Commission’s recent actions such as the adoption of the Mobility Fund Phase II and the Connect America Fund Phase II reverse auctions open eligibility to many other providers. Do these recent changes justify reallocating the 13 Wireline Competition Bureau FTEs and three Wireless Telecommunications Bureau FTEs as indirect? Or should any such reallocation await the full implementation of these reverse auctions? Alternatively, should some portion of the 38 FTEs that work on non-high-cost programs of the Universal Service Fund not be reallocated as indirect? If so, what portion?

³⁶ 47 U.S.C. 159(b)(1)(A).

³⁷ 47 CFR 54.706(a).

18. Commenters should provide legal and policy reasoning in support or opposition to the proposal and to the alternatives. We note that the Commission has said that it “would be inconsistent with section 9 to delay reallocating . . . FTEs, where the reallocation is clearly warranted, while we engage in painstaking examinations of less clear and more factually complex situations in other bureaus.”³⁸ We seek comment on whether reallocation is clearly warranted here, and we ask commenters to address the impact any change in the allocation of FTEs will have on payors in other fee categories as well as the Commission’s goal of ensuring that regulatory fees are administrable and sustainable.³⁹

2. Reallocating FTEs Associated with Numbering

19. We estimate that 7–8 FTEs in the Wireline Competition Bureau work on numbering issues. We propose to “adjust[]” the allocation of these direct FTEs “to take into account factors that are reasonably related to the benefits provided to the payer of the fee by the Commission’s activities”⁴⁰ Specifically, we estimate approximately half of the benefit of the work of these FTEs accrue to Wireless Telecommunications Bureau regulatees, who control 44.02 percent of assigned numbers under the North American Numbering Plan⁴¹ and 73.01 percent of voice subscriptions.⁴² We therefore propose to reallocate four of the Wireline Competition Bureau FTEs that work on numbering issues to the Wireless Telecommunications Bureau as direct FTEs for regulatory fee purposes. We seek comment on this proposal. We specifically seek comment on whether the statute requires us to impose regulatory fees on the regulatees of a single bureau even though the benefits provided by those FTEs accrue to regulatees of another bureau.

³⁸ FY 2013 Report and Order, 28 FCC Rcd at 12357-58, paras. 19 through 20.

³⁹ Id., 28 FCC Rcd at 12354, para 9.

⁴⁰ 47 U.S.C. 159(b)(1)(A).

⁴¹ Industry Analysis and Technology Division, Wireline Competition Bureau, FCC, Numbering Resource Utilization in the United States NRUF Data as of June 30, 2010 at 12 Table 1 (2013).

⁴² Industry Analysis and Technology Division, Wireline Competition Bureau, FCC, Voice Telephone Services: Status as of December 31, 2015 at 2 Figure 1 (2016).

20. Commenters should provide legal and policy reasoning in support or opposition to the proposal, as well as whether the Commission should consider any alternatives. We note that the Commission has said that it “would be inconsistent with section 9 to delay reallocating . . . FTEs, where the reallocation is clearly warranted, while we engage in painstaking examinations of less clear and more factually complex situations in other bureaus.”⁴³ We seek comment on whether reallocation is clearly warranted here, and we ask commenters to address the impact any change in the allocation of FTEs will have on payors in these two fee categories as well as the Commission’s goal of ensuring that regulatory fees are administrable and sustainable.⁴⁴

B. Direct Broadcast Satellite (DBS) Regulatory Fees

21. The proposed fee schedule includes an updated regulatory fee for DBS, a subcategory in the cable television and IPTV category.⁴⁵ In 2015, the Commission adopted an initial regulatory fee for DBS, as a subcategory in the cable television and IPTV category, of 12 cents per year per subscriber, or one cent per month.⁴⁶ At that time, the Commission committed to updating the regulatory fee rate for FY 2016, as necessary for ensuring an appropriate level of regulatory parity with cable television and IPTV and considering the Media Bureau resources dedicated to this subcategory.⁴⁷ Such examination is consistent with a report issued by the Government Accountability Office (GAO) in 2012, which observed it is important for the Commission to “regularly update analyses to ensure that fees are set based on relevant information.”⁴⁸

22. DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic dish antenna at the subscriber’s location. The two DBS

⁴³ FY 2013 Report and Order, 28 FCC Rcd at 12357-58, paras. 19 through 20.

⁴⁴ Id., 28 FCC Rcd at 12354, para 9.

⁴⁵ DBS also pays a regulatory fee per operational station in geostationary orbit.

⁴⁶ Assessment and Collection of Regulatory Fees for Fiscal Year 2015, Report and Order and Further Notice of Proposed Rulemaking, 30 FCC Rcd 10268, 10276-77, paras. 19 through 20 (2015) (FY 2015 Report and Order).

⁴⁷ FY 2015 Report and Order, 30 FCC Rcd at 10277, para. 20.

⁴⁸ GAO Report at 12, available at <http://www.gao.gov/products/GAO-12-686>.

providers, AT&T and DISH Network, are multichannel video programming distributors (MVPDs).⁴⁹

When the Commission adopted this regulatory fee subcategory, it recognized numerous recent regulatory developments increased Media Bureau FTE activity involving regulation and oversight of MVPDs, including DBS providers.⁵⁰ During the FY 2016 regulatory fee proceeding, commenters representing the cable television industry observed that the Media Bureau FTEs increasingly devote time to issues involving the entire MVPD industry, and that DBS, cable television, and IPTV all receive oversight and regulation as a result of the work of the Media Bureau FTEs on MVPD issues.⁵¹ Recognizing this, in the FY 2016 Report and Order, the Commission increased the regulatory fee for DBS providers to 24 cents, plus an across-the-board increase of three cents for the Commission's moving expenses, for a total of 27 cents per subscriber, per year.⁵² The increase was adopted in response to the increase in DBS oversight and regulation due to Media Bureau rulemakings regarding MVPD issues.⁵³ Nevertheless, the FY 2016 fee of 27 cents per subscriber adopted last year, increased from 12 cents, was still significantly below parity with the cable television/IPTV rate of \$1.00 per year.⁵⁴

23. Based on our updated analysis of the cable television/IPTV category, we find Media

⁴⁹ MVPD is defined in section 602(13) of the Act, 47 U.S.C. 522(13).

⁵⁰ FY 2015 NPRM, 30 FCC Rcd at 5367 through 68, para. 31. See, e.g., Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Notice of Proposed Rulemaking, 31 FCC Rcd 2463 (2016); Amendment to the Commission's Rules Concerning Market Modification, Implementation of Section 102 of the STELA Reauthorization Act of 2014, Report and Order, 30 FCC Rcd 10406 (2015); Implementation of Section 103 of the STELA Reauthorization Act of 2014, Notice of Proposed Rulemaking, 30 FCC Rcd 10327 (2015); Implementation of the Commercial Advertisement, Loudness Mitigation (CALM) Act, Report and Order, 26 FCC Rcd 17222 (2011) (CALM Act Report and Order).

⁵¹ American Cable Association (ACA) Comments at 3-11 (filed in MD Docket No. 16-166); National Cable & Telecommunications Association (NCTA) Reply Comments at 3-7 (filed in MD Docket No. 16-166).

⁵² FY 2016 Report and Order, 31 FCC Rcd at 10348 through 49, para. 26.

⁵³ Id., 31 FCC Rcd at 10348 through 49, para. 26. Commenters representing the cable industry continue to observe that "[w]hile cable, IPTV, and DBS providers are not regulated identically, they offer similar multichannel video services, participate in the same proceedings at the same level in terms of the number of filings and meetings, and benefit in a similar fashion from Media Bureau regulation of MVPDs." See Letter from Barbara Esbin, Cinnamon Mueller, attorney for ACA, to Marlene H. Dortch, Secretary, Federal Communications Commission (Dec. 16, 2016) (ACA ex parte) at 1.

⁵⁴ The agency is not required to calculate its costs with "scientific precision." Central & Southern Motor Freight Tariff Ass'n v. United States, 777 F.2d 722, 736 (D.C. Cir. 1985). Reasonable approximations will suffice. Id.; National Cable Television Ass'n v. FCC, 554 F.2d 1094, 1105 (D.C. Cir. 1976).

Bureau resources devoted to MVPD proceedings, including DBS,⁵⁵ supports revising the DBS regulatory fee rate again. Specifically, we propose a regulatory fee rate of 36 cents per subscriber per year, plus two cents due to the increase in the Commission's budget for moving expenses, for a total of 38 cents per subscriber per year for FY 2017, as set forth in the proposed fee schedule in Table 4. This proposed incremental increase of approximately one cent per subscriber per month would result in bringing the DBS industry regulatory fees closer to those for cable television/IPTV. We seek comment on this proposal.

C. Broadcaster Regulatory Fees

24. In the FY 2016 NPRM, the Commission proposed to include a higher population row in the table for AM and FM broadcasters,⁵⁶ to standardize the incremental increase in fees,⁵⁷ and to better assess fees based on the type and class of service.⁵⁸ The Commission also proposed to adjust the television broadcasters table so that Top 10 market stations paid approximately twice what stations in markets 26-50 paid.⁵⁹ In response to the FY 2016 NPRM, several commenters contended that the proposed regulatory fees were too burdensome for small independent stations.⁶⁰ After reviewing the record, including the comments filed by the industry identifying the economic hardship faced by small

⁵⁵ See, e.g., Expanding Consumers' Video Navigation Choices, Commercial Availability of Navigation Devices, Notice of Proposed Rulemaking and Memorandum Opinion and Order, 31 FCC Rcd 1544 (2016); Promoting the Availability of Diverse and Independent Sources of Video Programming, Notice of Inquiry, 31 FCC Rcd 1610 (2016); Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees, Report and Order, 31 FCC Rcd 526 (2016); Amendment of the Commission's Rules Concerning Market Modification; Implementation of Section 102 of the STELA Reauthorization Act of 2014, Report and Order, 30 FCC Rcd 10406 (2015).

⁵⁶ FY 2016 NPRM, 31 FCC Rcd at 5762 through 63, para. 12. The Commission also sought comment on this issue in the Further Notice of Proposed Rulemaking attached to the FY 2015 Report and Order. See FY 2015 Report and Order, 30 FCC Rcd at 10280, para. 28.

⁵⁷ Id. Specifically, the Commission sought comment on standardizing the incremental increase in fees as radio broadcasters increase the population they serve, such as by requiring that fee adjustments between tiers monotonically increase as the population served increases. Id.

⁵⁸ Id.

⁵⁹ FY 2016 NPRM, 31 FCC Rcd at 5763 through 64, para. 13. The Commission also sought comment on this issue in the Further Notice of Proposed Rulemaking attached to the FY 2015 Report and Order. See FY 2015 Report and Order, 30 FCC Rcd at 10280 through 81, para. 29.

⁶⁰ FY 2016 Report and Order, 31 FCC Rcd at 10351, para. 32.

independent radio stations, the Commission adopted a revised version of the proposed table and reduced the regulatory fees in the two lowest population tiers for AM and FM broadcasters from the rates proposed in the FY 2016 Report and Order.⁶¹

25. We seek comment on further adjusting the regulatory fees for FY 2017. The following chart proposes regulatory fees for AM and FM broadcasters, with revised ratios so that the difference between each tier is proportional. The second chart, for illustrative purposes, has the regulatory fees with the ratios used in the proposal for FY 2016. The second chart does not include the reduction for the two lowest tiers adopted in FY 2016. We seek comment on this proposal. Commenters should also discuss whether the regulatory fees should be reduced further for the AM and FM broadcasters in the two lowest tiers.

TABLE 1: PROPOSED FY 2017 RADIO STATION REGULATORY FEES

| <u>Proposed</u> FY 2017 RADIO STATION REGULATORY FEES | | | | | | |
|--|-------------------|-------------------|-------------------|-------------------|----------------------------------|---|
| This uses the proposed ratios for FY 2017 | | | | | | |
| Population Served | AM Class A | AM Class B | AM Class C | AM Class D | FM Classes A, B1 & C3 | FM Classes B, C, C0, C1 & C2 |
| <=25,000 | \$1,050 | \$750 | \$650 | \$715 | \$1,150 | \$1,300 |
| 25,001 – 75,000 | \$1,575 | \$1,125 | \$975 | \$1,075 | \$1,725 | \$1,950 |
| 75,001 – 150,000 | \$2,375 | \$1,700 | \$1,475 | \$1,600 | \$2,600 | \$2,925 |
| 150,001 – 500,000 | \$3,550 | \$2,525 | \$2,200 | \$2,425 | \$3,875 | \$4,400 |
| 500,001 – 1,200,000 | \$5,325 | \$3,800 | \$3,300 | \$3,625 | \$5,825 | \$6,575 |
| 1,200,001 – 3,000,00 | \$7,975 | \$5,700 | \$4,950 | \$5,425 | \$8,750 | \$9,875 |
| 3,000,001 – 6,000,00 | \$11,950 | \$8,550 | \$7,400 | \$8,150 | \$13,100 | \$14,800 |
| >6,000,000 | \$17,950 | \$12,825 | \$11,100 | \$12,225 | \$19,650 | \$22,225 |

TABLE 2: FY 2017 RADIO STATION REGULATORY FEES BASED ON FY 2016 RATIOS

| FY 2017 RADIO STATION REGULATORY FEES, based on proposed FY 2016 fees |
|--|
|--|

⁶¹ Id., 31 FCC Rcd at 10351, para. 33.

| This chart uses the proposed ratios in FY 2016 | | | | | | |
|--|------------|------------|------------|------------|-----------------------|------------------------------|
| Population Served | AM Class A | AM Class B | AM Class C | AM Class D | FM Classes A, B1 & C3 | FM Classes B, C, C0, C1 & C2 |
| <=25,000 | \$1,125 | \$825 | \$710 | \$780 | \$1,250 | \$1,425 |
| 25,001 – 75,000 | \$1,700 | \$1,250 | \$1,075 | \$1,175 | \$1,875 | \$2,150 |
| 75,001 – 150,000 | \$2,250 | \$1,650 | \$1,425 | \$1,550 | \$2,500 | \$2,850 |
| 150,001 – 500,000 | \$3,375 | \$2,475 | \$2,125 | \$2,350 | \$3,750 | \$4,275 |
| 500,001 – 1,200,000 | \$5,625 | \$4,125 | \$3,550 | \$3,900 | \$6,250 | \$7,125 |
| 1,200,001 – 3,000,00 | \$8,450 | \$6,200 | \$5,325 | \$5,850 | \$9,375 | \$10,700 |
| 3,000,001 – 6,000,00 | \$11,250 | \$8,250 | \$7,100 | \$7,800 | \$12,500 | \$14,250 |
| >6,000,000 | \$14,075 | \$10,325 | \$8,875 | \$9,750 | \$15,625 | \$17,825 |

D. Broadcast Television Satellites

26. Broadcast television satellite stations pay a lower regulatory fee than standalone, full-service broadcast television stations, and are designated as such pursuant to note 5 to section 73.3555 of the Commission's rules.⁶² In 1995, the Commission made a permissive amendment to the regulatory fees schedule to permit television satellite stations that had received authorization to retransmit programming of the primary station to pay a fee separate from the fee for fully operational television stations. This amount is based upon the fee passed by the House of Representatives for television satellite stations for FY 1994.⁶³ Other full-service television licensees remain subject to the regulatory fee payment required for the class of station and market. Of note, since 1995, we have consistently defined, and thereby limited, a television satellite station as one commonly owned, authorized under note 5 of section 73.3555 of the Commission's rules, and also shown as such in the Television and Cable Factbook. Periodically,

⁶² E.g., for FY 2016, satellite television was assessed \$1,750, whereas digital broadcast UHF and VHF TV was assessed \$5,000 to \$60,675, depending on the market size.

⁶³ Assessment and Collection of Regulatory Fees for Fiscal Year 1995, Report and Order, 10 FCC Rcd 13512, 13534-35, para. 60 (1995). See also Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, Report and Order, 9 FCC Rcd 5333, para. 82 (1994) ("Section 9(g)'s fee schedule establishes specific fees for commercial television stations. These fees are to be assessed against a licensee solely on the basis of the market in which the station operates. The text of the schedule makes no distinction between commercial stations that are fully operational and those that are satellite stations.").

the Television and Cable Factbook includes information concerning satellite status that is inconsistent with our records.

27. There is a standalone full-service station usually within the same market that serves as the “parent” to the satellite station that could not be commonly owned or controlled with the satellite, but for such a waiver. Section 76.55(e)(2) of the Commission’s rules specifies that a commercial broadcast television station’s market is its Designated Market Area (DMA), which reflects viewing patterns, as determined by Nielsen Media Research and published in its Nielsen Station Index Directory and Nielsen Station Index US Television Household Estimates or any successor publications.⁶⁴ We are unaware of the existence of any reliable published source that can identify which television stations are serving small markets at the fringe of larger DMA’s.⁶⁵ In a particular situation, the licensee of a broadcast television satellite station that is not carried by cable, satellite, or alternate methods, may have signal contours that cover the fringes of a DMA (generally, rural communities), whereas other full-service TV stations have greater over-the-air coverage of the DMA market. As a result, advertisers may devote more commercial spending to other full-service TV stations rather than to the more limited broadcast television satellite stations in the same DMA market. Such broadcast television satellite stations may originate their own programming, multicast their broadcasts, and with cable or satellite carriage, provide programming to the entire DMA market. For purposes of paying regulatory fees, the Commission identifies those stations that it deems to be broadcast satellite television stations based on Consolidated Data Base System (CDBS) and other Media Bureau data. However, some stations claim to operate as “satellites,” and pay a lower

⁶⁴ 47 CFR 76.55(e)(2); Assessment and Collection of Regulatory Fees for Fiscal Year 2000, Report and Order, 15 FCC Rcd 14478, 14492, para. 34 (2000) (FY 2000 Report and Order) (“Fees for television stations are based on market size as determined by Nielsen. This is the only consistent source the Commission has for determining which market a station serves.”). See also Amendment to the Commission’s Rules Concerning Market Modification, 30 FCC Rcd 10406, para. 6, n. 19 (2015) (“The Nielsen Company delineates television markets by assigning each U.S. county (except for certain counties in Alaska) to one market based on measured viewing patterns both off-air and via MVPD distribution.”); Designated Market Areas: Report to Congress, 31 FCC Rcd 5463, 5465 through 66, para. 6 (2015).

⁶⁵ FY 2000 Report and Order, 15 FCC Rcd 14478, 14492, para. 34 (Commission rejected commenter’s “argu[ment] that small television stations located near large designated market areas (DMA) are assessed disproportionately high fees because the A.C. Nielsen ratings include them in the DMA but they do not serve households in the DMA. Fees for television stations are based on market size as determined by Nielsen. This is the only consistent source the Commission has for determining which market a station serves.”).

regulatory fee (\$1,750 in FY 2016), although they have not been officially granted satellite status by the Commission. Because satellite status may be derived only as a result of Commission action, only stations granted such status by the Commission may pay the satellite television regulatory fee; other stations that claim such status must pay the fee for a full-service station. Attached in **Appendix E** is a list of the bona fide licensed broadcast satellite television stations, according to the Media Bureau records. This list is generated from the Commission's CDBS and other information provided to the Media Bureau. We invite comment on the accuracy of this list.

28. Recognizing that the Commission permitted a lesser fee for television satellite stations, we seek comment on whether we should increase the regulatory fees for broadcast satellite television stations to ensure that all television broadcasters are paying an appropriate regulatory fee based on Media Bureau FTE oversight and regulation. The circumstances that existed in 1994 when the Commission explained that it would permit consideration of a reduced fee in very limited circumstances have changed.⁶⁶ As it relates to television satellite stations, should the satellite regulatory fee be increased to a higher percentage of standalone full-service broadcast television stations for “remaining markets”? In particular, we seek comment on whether the fee for broadcast television satellite stations should be increased to 50 or 75 percent of the regulatory fee for remaining markets for FY 2017 applicable if the station were not a broadcast satellite station, but a full-service standalone broadcast station. Commenters supporting an increase in the broadcast satellite television fee should explain why the fee should be closer to the regular standalone full-service broadcast television fee.

⁶⁶ See Implementation of section 9 of the Communications Act and Assessment and Collection of Regulatory Fees of the 1994 Fiscal Year, Memorandum Opinion and Order, 10 FCC Rcd 12759, 12763, para. 21 (1995) (Applicants considered for relief “were generally UHF stations ... lack[ing] network affiliations ... located outside of the principle city’s metropolitan area and do not provide a Grade B signal to a substantial portion of the market’s metropolitan areas. Often these stations are not carried by cable systems serving the principal metropolitan areas.”); Assessment and Collection of Regulatory Fees for Fiscal Year 1996, Report and Order, 11 FCC Rcd 18774, 18786, para. 32 (1996) (“We ... rely on Nielsen’s DMA market rankings ... Nielsen data is generally accepted throughout the industry and will be updated and published annually ... We will consider the equities concerning the fees of licensees that change markets on a case-by-case basis, upon request, and, where a licensee demonstrates that it does not serve its assigned market, we will consider reducing the assigned fees to a more equitable level, based upon the area actually served by the licensee.”).

E. International Bearer Circuits

29. Historically, regulatory fees for international bearer circuits (IBCs) have been paid by facilities-based common carriers based on the number of active international bearer circuits they have in a transmission facility used to provide service to specified types of entities—specifically, by facilities-based common carriers that have active international bearer circuits in any transmission facility for the provision of service to an end user or resale carrier, which includes active circuits to themselves or to their affiliates.⁶⁷ In 2009, the Commission revised this methodology by allocating submarine IBC costs among service providers in an equitable and competitively neutral manner, without distinguishing between common carriers and non-common carriers, and assessing a flat per cable landing license fee for all submarine cable systems.⁶⁸ It nonetheless declined to simplify terrestrial and satellite IBCs at that time because of the “complexity of the legal, policy and equity issues involved.”⁶⁹ In the FY 2016 NPRM, the Commission revisited the disparate treatment of terrestrial and satellite IBCs vis-à-vis submarine IBCs,⁷⁰ but decided in the FY 2016 Report and Order, that the record was insufficient to change the fee methodology at that time.⁷¹

30. The international services marketplace has continued to evolve and we seek comment on how to update and improve our regulatory fee assessment for terrestrial and satellite IBCs to reflect these changes.⁷² We seek comment on how to make our fee assessment more efficient, equitable, and less

⁶⁷ Assessment and Collection of Regulatory Fees for Fiscal Year 2008, Second Report and Order, 24 FCC Rcd 4208, 4211, para. 4 (2009) (Subcable Order).

⁶⁸ Subcable Order, 24 FCC Rcd at 4214–16, paras. 13–17.

⁶⁹ Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order, 24 FCC Rcd 10301, 10306 through 07, paras. 16 through 17 (2009).

⁷⁰ FY 2016 NPRM, 31 FCC Rcd at 5764 through 65, paras. 15 through 16.

⁷¹ FY 2016 Report and Order, 31 FCC Rcd at 10343, para. 11.

⁷² The Commission has a pending proceeding that seeks comment on the federal need for the international services reporting requirements set forth in section 43.62 of the Commission’s rules. Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations, IB Docket Nos. 16 through 131 and 17 through 55, Notice of Proposed Rulemaking, 32 FCC Rcd 2606 (2017). Relevant to this proceeding, the Commission seeks comment on whether there are ways to further streamline the Circuit Capacity Reports, which require providers of international telecommunications services to file annual reports identifying the submarine cable, satellite, and terrestrial capacity between the United States and foreign points. As noted below, we

(continued....)

burdensome. In particular, we seek comment on adopting a flat, per-provider fee similar to how we treat submarine cable regulatory fees, with a tiered regulatory fee methodology for terrestrial IBCs based on capacity. Similar to the regulatory fee treatment of submarine cable IBCs, under this proposal, terrestrial and satellite IBCs would be treated the same regardless of whether they are offered on a common-carrier or non-common-carrier basis. We seek comment on this proposal and how to divide the terrestrial IBCs into categories based on capacity.

31. Level 3 states that non-common carrier terrestrial IBCs should not be exempt from regulatory fees, as it finds the practice to be administratively burdensome, not equitable or competitively neutral, and a disincentive to compliance with the Commission’s regulatory fee rules.⁷³ Level 3, for example, states that it “spends dozens of person hours each year polling multiple systems to identify international terrestrial facilities in service, generating reports of the circuits that have been sold over those facilities, and identifying whether any of the circuits were sold on a non-common carrier basis.”⁷⁴ Level 3 asserts that the disparate treatment of common carrier and non-common carrier circuits is neither equitable nor competitively neutral as “[p]roviders that offer international terrestrial service on a common carrier basis are at a significant disadvantage vis a vis providers that characterize their service as non-common carrier.”⁷⁵ Level 3 states that “[c]arriers currently have a strong incentive to characterize circuits as non-common carrier circuits in order to reduce their regulatory fee burden.”⁷⁶ According to Level 3, a flat fee will improve compliance with the Commission’s regulatory fee requirements⁷⁷ and “a flat-fee system will remove incentives for providers to not deploy terrestrial IBCs, or to sell international capacity

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rely on the reporting requirements for terrestrial, satellite, and submarine cable capacity data to administer the annual regulatory fees established in section 9 of the Act. See infra at Appendix C; see 47 CFR 43.62(a)(1).

⁷³ Level 3 Comments, MD Docket No. 16-166, at 5.

⁷⁴ Id. at 5.

⁷⁵ Id. at 6 (stating that “the fact that non-common carrier circuits are ‘unregulated’ is not relevant to the Commission’s authority to collect regulatory fees on those circuits. All terrestrial IBCs are ‘telecommunications’ subject to the Commissions’ jurisdiction, and benefit from the Commissions’ ‘international activities,’ including cross-border coordination with Canada and Mexico”).

⁷⁶ Id. at 5.

⁷⁷ Id. at 5.

over submarine cable systems instead of terrestrial IBCs.”⁷⁸ We seek comment on these arguments and whether we should harmonize the regulatory treatment of common carrier and non-common carrier terrestrial circuits.

32. We also seek comment on whether we should make changes to the IBC fees for satellite circuits. The number of satellite IBCs are relatively small as compared to terrestrial IBCs.⁷⁹ We also note that in addition to being assessed regulatory fees on their common carrier and non-common carrier circuits, earth station, geostationary orbit space station, and non-geostationary orbit space station licensees pay separate regulatory fees for their facilities that are licensed and operational.⁸⁰ We seek comment on whether there is a basis to eliminate the IBC regulatory fee for satellite providers of international communications. If we retain the IBC regulatory fees for satellite circuits, should we adopt the methodology discussed herein for assessing the number of active circuits (either only assessing fees on systems active as of December 31 of the prior year, or assessing fees on IBCs that were active at any point during the preceding calendar year)? If we adopt the proposal for a flat-fee methodology, should we apply it to satellite circuits as well as terrestrial circuits? Are there any other steps we should take to harmonize our regulatory fee treatment of terrestrial and satellite IBCs?

33. We also seek comment on whether we should continue to assess regulatory fees based on IBCs that were active as of December 31 of the prior year.⁸¹ Commenters should discuss whether instead we should assess regulatory fees based on IBCs that were active at any point during the preceding calendar year.⁸²

⁷⁸ Id. at 4.

⁷⁹ For example, for data as of December 31, 2014, there were a total of 21,911,703 circuit units (64 kbps) with terrestrial circuits accounting for 99.63 percent (21,830,546) while satellite accounted for only 0.37 percent (81,157). FCC, International Bureau, 2014 U.S. International Circuit Capacity Report at 3 (IB 2016), https://apps.fcc.gov/edocs_public/attachmatch/DOC-337257A2.pdf.

⁸⁰ See infra para. 39; FY 2016 Report and Order, 31 FCC Rcd at 10356, para. 42.

⁸¹ 47 CFR 43.62(a)(1); see infra at para. 30.

⁸² We recognize that this could require modification of section 43.62(a)(1) of our rules and any successor rules. 47 CFR 43.62(a)(1).

34. Finally, we tentatively conclude that adding non-common carrier international bearer circuits to the regulatory fee schedule would be a permitted amendment as defined in section 9(b)(3) of the Act,⁸³ and pursuant to section 9(b)(4)(B) must be submitted to Congress at least 90 days before it would become effective.⁸⁴

F. Revising the De Minimis Threshold and Eliminating Regulatory Fee Categories

35. Under the Commission's current de minimis rule for regulatory fee payments, a regulatee is exempt from paying regulatory fees if the sum total of all of its regulatory fee liabilities for annual regulatory fees is \$500 or less for the fiscal year.⁸⁵ The Commission increased the de minimis threshold from \$10 to \$500 in the FY 2014 Report and Order.⁸⁶ The higher threshold reflected the estimated costs of collecting an unpaid regulatory fee, i.e., at least \$350 in direct costs, and the benefits to these entities of a higher de minimis threshold. The Commission's estimate of approximately \$350 excluded overhead or other costs involved in regulatory fee collection.⁸⁷ In addition, the Commission observed that setting the de minimis threshold at \$500 was unlikely to reduce fee collections to an amount below the full amount of the Commission's annual appropriation.⁸⁸

36. In the FY 2014 regulatory fee proceeding, commenters argued the threshold should be increased to \$750 or \$1,000.⁸⁹ For example, ACA suggested that the Commission adopt a threshold of 1000 or fewer subscribers for cable operators and the National Association of Broadcasters (NAB) argued that the Commission should adopt a de minimis threshold of \$750 or \$1,000 in order to provide relief for smaller entities.⁹⁰ These commenters explained that a higher de minimis threshold may contribute to the

⁸³ 47 U.S.C. 159(b)(3).

⁸⁴ 47 U.S.C. 159(b)(4)(B).

⁸⁵ FY 2014 Report and Order, 29 FCC Rcd at 10774-76, paras. 18 through 21.

⁸⁶ Id.

⁸⁷ Id., 29 FCC Rcd at 10775, para. 20 & n. 62.

⁸⁸ Id.

⁸⁹ Id.

⁹⁰ Id.

difference between a small operator staying in business or closing operations.⁹¹ NAB also observed that a higher de minimis threshold would allow stations in smaller markets to devote more resources to improved programming and signal quality.⁹² The Commission adopted a new threshold of \$500 for annual regulatory fee and committed to further monitor the de minimis threshold and consider whether to increase the threshold or revise on some other basis.⁹³

37. Consistent with this commitment, we seek comment on increasing the de minimis threshold to \$1,000 to improve the cost effectiveness of the Commission's collection of regulatory fees and to provide regulatory fee relief to smaller entities, particularly those that have little Commission regulation or oversight.⁹⁴ As we explained in the FY 2014 Report and Order, smaller entities with limited funds are less likely to be able to budget for regulatory fees on a timely basis and therefore may incur late fees and consequently use more Commission resources for fee collection.⁹⁵ The administrative burden on small regulatees, and the Commission's operational costs associated with processing and collecting these smaller fees, likely outweigh the benefits of such payments. For example, payors between \$500 and \$1,000 account for less than one percent of all regulatory fee payments. In addition, the cost of researching, creating, and sending a bill to a non-payer, and completing all follow-up discussion and correspondence, totals more than \$350. Added to this cost is the overhead and the costs of administering the regulatory fee program.⁹⁶ We seek comment on whether it makes sense to incur upwards of \$350 in administrative costs to collect not even that much in regulatory fees that can offset the costs fees paid by other regulatees (as is the case for regulatees that owe \$501 to \$700). We seek comment on whether a \$1,000 threshold is high enough to ensure that the regulatory fees collected from any regulatee

⁹¹ Id., 29 FCC Rcd at 10774 through 75, para. 19.

⁹² Id.

⁹³ Id., 29 FCC Rcd at 10775, para. 20.

⁹⁴ Id. (observing that many small entities "are subject to little Commission oversight and regulation which serves to further exacerbate this inequity [of the administrative burden].").

⁹⁵ Id.

⁹⁶ Id.

substantially exceed the costs of collection. We invite comment whether the cost of collections and burden on small entities outweigh the associated regulatory fee payments.

38. We also seek comment on whether we should include multi-year wireless licenses in the de minimis threshold. If we adopt a de minimis threshold for multi-year wireless licensees, should the threshold be fee-based, or should it be determined by the number of licenses, frequencies, or paths the licensee holds? We recognize that some entities hold many multi-year licenses and the licenses can be renewed at different times of the year. Commenters should discuss whether including multi-year licenses in the de minimis threshold would be too administratively burdensome. We also seek comment on whether we should adopt a de minimis threshold based on number of cable television subscribers, as suggested by ACA.⁹⁷

39. In addition, we seek comment on eliminating regulatory fee categories, such as CMRS Messaging (Paging).⁹⁸ This category accounts for a very small amount of regulatory fees; we seek comment on the benefits of discontinuing such collections. Commenters should discuss other changes to the regulatory fee framework that would facilitate the goal of ensuring that regulatory fees are administrable and sustainable. For example, are there categories of regulatory fee payors that now have very little Commission oversight or regulation, apart from the application fee process? We seek comment on whether there are regulatory fees adopted for some categories in the past where now there is a clear case to conclude that the fee is no longer “reasonably related to the benefits provided to the payer of the fee by the Commission’s activities. . . .”⁹⁹

⁹⁷ ACA observes that “exempting cable/IPTV providers serving fewer than 1,000 subscribers from the Cable/IPTV fee category would be consistent with other exemptions the Commission has created for these operators, and would serve similar purposes.” ACA ex parte at 4. ACA suggests a progressive fee structure, with the level of rates gradually increasing based on the number of subscribers. *Id.* at 5 through 6.

⁹⁸ The Commission has sought comment on this issue previously. See Assessment and Collection of Regulatory Fees for Fiscal Year 2014, Notice of Proposed Rulemaking, 29 FCC Rcd 6417, 6429, para. 32 (2014) (FY 2014 NPRM).

⁹⁹ 47 U.S.C. 159(b)(1)(A). We note, however, that the Communications Act provides for “waiver, reduction, and deferment” of a regulatory fee in any specific instance for good cause shown, where such action would promote the public interest. As a result, commenters should not focus suggestions on the merits of individual regulatory fee

(continued....)

40. We tentatively conclude that eliminating categories from our regulatory fee schedule would be a permitted amendment as defined in section 9(b)(3) of the Act,¹⁰⁰ and pursuant to section 9(b)(4)(B) must be submitted to Congress at least 90 days before it would become effective.¹⁰¹

G. Other Reforms

41. We also seek comment on ways to further improve our regulatory fee process to make it less burdensome for all entities. In particular, we seek comment on ways we can communicate better with smaller regulatees, such as mass emails (instead of through the U.S. Postal Service), and if we should therefore require a current email address for all regulatory fee payors.

V. PROCEDURAL MATTERS

A. Payment of Regulatory Fees

1. Checks Will Not Be Accepted for Payment of Annual Regulatory Fees

42. Pursuant to an Office of Management and Budget (OMB) directive,¹⁰² the Commission is moving towards a paperless environment, extending to disbursement and collection of select federal government payments and receipts.¹⁰³ In 2015, the Commission stopped accepting checks (including cashier's checks and money orders) and the accompanying hardcopy forms (e.g., Forms 159, 159-B, 159-E, 159-W) for the payment of regulatory fees.¹⁰⁴ All regulatory fee payments must be made by online Automated Clearing House (ACH) payment, online credit card, or wire transfer. Any other form of payment (e.g., checks, cashier's checks, or money orders) will be rejected. For payments by wire, a Form

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payors but rather improvements to the system that are consistent with Congressional directive contained in section 9 of the Communications Act.

¹⁰⁰ 47 U.S.C. 159(b)(3).

¹⁰¹ 47 U.S.C. 159(b)(4)(B).

¹⁰² Office of Management and Budget (OMB) Memorandum M-10-06, Open Government Directive, Dec. 8, 2009; see also <http://www.whitehouse.gov/the-press-office/2011/06/13/executive-order-13576-delivering-efficient-effective-and-accountable-gov>.

¹⁰³ See U.S. Department of the Treasury, Open Government Plan 2.1, September 2012.

¹⁰⁴ FY 2015 Report and Order, 30 FCC Rcd at 10282through 83, para. 35. See 47 CFR 1.1158.

159-E should still be transmitted via fax so that the Commission can associate the wire payment with the correct regulatory fee information.

2. Credit Card Transaction Levels

43. Since June 1, 2015, in accordance with U.S. Treasury Announcement No. A-2014-04 (July 2014), the amount that can be charged on a credit card for transactions with federal agencies has is \$24,999.99.¹⁰⁵ Transactions greater than \$24,999.99 will be rejected. This limit applies to single payments or bundled payments of more than one bill. Multiple transactions to a single agency in one day may be aggregated and treated as a single transaction subject to the \$24,999.99 limit. Customers who wish to pay an amount greater than \$24,999.99 should consider available electronic alternatives such as Visa or MasterCard debit cards, ACH debits from a bank account, and wire transfers. Each of these payment options is available after filing regulatory fee information in Fee Filer. Further details will be provided regarding payment methods and procedures at the time of FY 2017 regulatory fee collection in Fact Sheets, available at <https://www.fcc.gov/regfees>.

3. De Minimis Regulatory Fees

44. Under the Commission's present de minimis rule for regulatory fee payments, a regulatee is exempt from paying regulatory fees if the sum total of all of its annual regulatory fee liabilities is \$500 or less for the fiscal year. The de minimis threshold applies only to filers of annual regulatory fees (not regulatory fees paid through multi-year filings), and it is not a permanent exemption. Each regulatee will need to reevaluate the total annual fee liability each fiscal year to determine whether they meet the de minimis exemption. This de minimis threshold could change as a result of this Notice of Proposed Rulemaking.

¹⁰⁵ Customers who owe an amount on a bill, debt, or other obligation due to the federal government are prohibited from splitting the total amount due into multiple payments. Splitting an amount owed into several payment transactions violates the credit card network and Fiscal Service rules. An amount owed that exceeds the Fiscal Service maximum dollar amount, \$24,999.99, may not be split into two or more payment transactions in the same day by using one or multiple cards. Also, an amount owed that exceeds the Fiscal Service maximum dollar amount may not be split into two or more transactions over multiple days by using one or more cards.

4. Standard Fee Calculations and Payment Dates

45. The Commission will accept fee payments made in advance of the window for the payment of regulatory fees. The responsibility for payment of fees by service category is as follows:

- Media Services: Regulatory fees must be paid for initial construction permits that were granted on or before October 1, 2016 for AM/FM radio stations, VHF/UHF full service television stations, and satellite television stations. Regulatory fees must be paid for all broadcast facility licenses granted on or before October 1, 2016.
- Wireline (Common Carrier) Services: Regulatory fees must be paid for authorizations that were granted on or before October 1, 2016. In instances where a permit or license is transferred or assigned after October 1, 2016, responsibility for payment rests with the holder of the permit or license as of the fee due date. Audio bridging service providers are included in this category.¹⁰⁶ For Responsible Organizations (RespOrgs) that manage Toll Free Numbers (TFN), regulatory fees should be paid on all working, assigned, and reserved toll free numbers as well as toll free numbers in any other status as defined in section 52.103 of the Commission's rules.¹⁰⁷ The unit count should be based on toll free numbers managed by RespOrgs on or about December 31, 2016.
- Wireless Services: CMRS cellular, mobile, and messaging services (fees based on number of subscribers or telephone number count): Regulatory fees must be paid for authorizations that were granted on or before October 1, 2016. The number of subscribers, units, or telephone numbers on December 31, 2016 will be used as the basis from which to calculate the fee payment. In instances where a permit or license is transferred or assigned after October 1, 2016, responsibility for payment rests with the holder of the permit or license as of the fee due date.

¹⁰⁶ Audio bridging services are toll teleconferencing services.

¹⁰⁷ 47 CFR 52.103.

- Wireless Services, Multi-year fees: The first eight regulatory fee categories in our Schedule of Regulatory Fees pay “small multi-year wireless regulatory fees.” Entities pay these regulatory fees in advance for the entire amount period covered by the five-year or ten-year terms of their initial licenses, and pay regulatory fees again only when the license is renewed or a new license is obtained. We include these fee categories in our rulemaking to publicize our estimates of the number of “small multi-year wireless” licenses that will be renewed or newly obtained in FY 2017.
- Multichannel Video Programming Distributor Services (cable television operators, CARS licensees, DBS, and IPTV): Regulatory fees must be paid for the number of basic cable television subscribers as of December 31, 2016.¹⁰⁸ Regulatory fees also must be paid for CARS licenses that were granted on or before October 1, 2016. In instances where a permit or license is transferred or assigned after October 1, 2016, responsibility for payment rests with the holder of the permit or license as of the fee due date. For providers of Direct Broadcast Satellite (DBS) service and IPTV-based MVPDs, regulatory fees should be paid based on a subscriber count on or about December 31, 2016. In instances where a permit or license is transferred or assigned after October 1, 2016, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- International Services: Regulatory fees must be paid for (1) earth stations and (2) geostationary orbit space stations and non-geostationary orbit satellite systems that were licensed and operational on or before October 1, 2016. In instances where a permit or license is transferred or assigned after October 1, 2016, responsibility for payment rests with the holder of the permit or license as of the fee due date.

¹⁰⁸ Cable television system operators should compute their number of basic subscribers as follows: Number of single family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, etc.) paying at the basic subscriber rate + bulk rate customers + courtesy and free service. Note: Bulk-Rate Customers = Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Operators may base their count on “a typical day in the last full week” of December 2016, rather than on a count as of December 31, 2016.

- International Services: (Submarine Cable Systems): Regulatory fees for submarine cable systems are to be paid on a per cable landing license basis based on circuit capacity as of December 31, 2016. In instances where a license is transferred or assigned after October 1, 2016, responsibility for payment rests with the holder of the license as of the fee due date. For regulatory fee purposes, the allocation in FY 2017 will remain at 87.6 percent for submarine cable and 12.4 percent for satellite/terrestrial facilities.
- International Services: (Terrestrial and Satellite Services): Regulatory fees for Terrestrial and Satellite IBCs are to be paid by facilities-based common carriers that have active (used or leased) international bearer circuits as of December 31, 2016 in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier. When calculating the number of such active circuits, the facilities-based common carriers must include circuits used by themselves or their affiliates. In addition, non-common carrier satellite operators must pay a fee for each circuit they and their affiliates hold and each circuit sold or leased to any customer, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. For these purposes, “active circuits” include backup and redundant circuits as of December 31, 2016. Whether circuits are used specifically for voice or data is not relevant for purposes of determining that they are active circuits.¹⁰⁹ In instances where a permit or license is transferred or assigned after October 1, 2016, responsibility for payment rests with the holder of the permit or license as of the fee due date. For regulatory fee purposes, the allocation in FY 2017 will remain at 87.6 percent for submarine cable and 12.4 percent for satellite/terrestrial facilities.¹¹⁰

¹⁰⁹ We encourage terrestrial and satellite service providers to seek guidance from the International Bureau’s Telecommunications and Analysis Division to verify their particular IBC reporting processes to ensure that their calculation methods comply with our rules.

¹¹⁰ We remind facilities-based common carriers to review their reporting processes to ensure that they accurately calculate and report IBCs.

B. Commercial Mobile Radio Service (CMRS) and Mobile Services Assessments

46. The Commission will compile data from the Numbering Resource Utilization Forecast (NRUF) report that is based on “assigned” telephone number (subscriber) counts that have been adjusted for porting to net Type 0 ports (“in” and “out”).¹¹¹ This information of telephone numbers (subscriber count) will be posted on the Commission’s electronic filing and payment system (Fee Filer) along with the carrier’s Operating Company Numbers (OCNs).

47. A carrier wishing to revise its telephone number (subscriber) count can do so by accessing Fee Filer and follow the prompts to revise their telephone number counts. Any revisions to the telephone number counts should be accompanied by an explanation or supporting documentation.¹¹² The Commission will then review the revised count and supporting documentation and either approve or disapprove the submission in Fee Filer. If the submission is disapproved, the Commission will contact the provider to afford the provider an opportunity to discuss its revised subscriber count and/or provide additional supporting documentation. If we receive no response from the provider, or we do not reverse our initial disapproval of the provider’s revised count submission, the fee payment must be based on the number of subscribers listed initially in Fee Filer. Once the timeframe for revision has passed, the telephone number counts are final and are the basis upon which CMRS regulatory fees are to be paid. Providers can view their final telephone counts online in Fee Filer. A final CMRS assessment letter will not be mailed out.

48. Because some carriers do not file the NRUF report, they may not see their telephone number counts in Fee Filer. In these instances, the carriers should compute their fee payment using the standard methodology that is currently in place for CMRS Wireless services (i.e., compute their telephone number counts as of December 31, 2016), and submit their fee payment accordingly. Whether a carrier

¹¹¹ See Assessment and Collection of Regulatory Fees for Fiscal Year 2005, Report and Order and Order on Reconsideration, 20 FCC Rcd 12259, 12264, paras. 38 through 44 (2005).

¹¹² In the supporting documentation, the provider will need to state a reason for the change, such as a purchase or sale of a subsidiary, the date of the transaction, and any other pertinent information that will help to justify a reason for the change.

reviews its telephone number counts in Fee Filer or not, the Commission reserves the right to audit the number of telephone numbers for which regulatory fees are paid. In the event that the Commission determines that the number of telephone numbers that are paid is inaccurate, the Commission will bill the carrier for the difference between what was paid and what should have been paid.

VI.

ADDITIONAL TABLES

TABLE 3

Calculation of FY 2017 Revenue Requirements and Pro-Rata Fees

Regulatory fees in the first seven fee categories are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.

| Fee Category | FY 2017 Payment Units | Years | FY 2016 Revenue Estimate | Pro-Rated FY 2017 Revenue Require- ment | Computed FY 2017 Regulatory Fee | Rounded FY 2017 Reg. Fee | Expected FY 2017 Revenue |
|--|--------------------------|-------|--------------------------------|---|--|--------------------------------|--------------------------------|
| PLMRS (Exclusive Use) | 1,300 | 10 | 625,000 | 326,950 | 25 | 25 | 325,000 |
| PLMRS (Shared use) | 16,000 | 10 | 3,110,000 | 1,609,600 | 10 | 10 | 1,600,000 |
| Microwave | 11,800 | 10 | 3,125,000 | 2,967,700 | 25 | 25 | 2,950,000 |
| Marine (Ship) | 8,100 | 10 | 1,035,000 | 1,222,290 | 15 | 15 | 1,215,000 |
| Aviation (Aircraft) | 4,200 | 10 | 470,000 | 422,520 | 10 | 10 | 420,000 |
| Marine (Coast) | 150 | 10 | 192,500 | 60,360 | 40 | 40 | 60,000 |
| Aviation (Ground) | 1,100 | 10 | 220,000 | 221,329 | 20 | 20 | 220,000 |
| AM Class A ⁴ | 65 | 1 | 313,500 | 307,333 | 4,728 | 4,725 | 307,125 |
| AM Class B ⁴ | 1,523 | 1 | 3,875,875 | 3,830,345 | 2,515 | 2,525 | 3,845,575 |
| AM Class C ⁴ | 870 | 1 | 1,400,175 | 1,356,591 | 1,559 | 1,550 | 1,348,500 |
| AM Class D ⁴ | 1,492 | 1 | 4,587,900 | 4,502,856 | 3,018 | 3,025 | 4,513,300 |
| FM Classes A, B1 & C3 ⁴ | 3,150 | 1 | 9,678,200 | 9,427,478 | 2,993 | 3,000 | 9,450,000 |
| FM Classes B, C, C0, C1 & C2 ⁴ | 3,114 | 1 | 11,849,725 | 11,590,931 | 3,722 | 3,725 | 11,599,650 |
| AM Construction Permits ¹ | 10 | 1 | 9,300 | 6,500 | 650 | 650 | 6,500 |
| FM Construction Permits ¹ | 113 | 1 | 192,425 | 129,950 | 1,150 | 1,150 | 129,950 |
| Satellite TV | 126 | 1 | 224,000 | 218,654 | 1,735 | 1,725 | 217,350 |
| Digital TV Markets 1-10 | 139 | 1 | 8,433,825 | 8,355,082 | 60,109 | 60,100 | 8,353,900 |
| Digital TV Markets 11-25 | 131 | 1 | 6,348,825 | 5,933,665 | 45,295 | 45,300 | 5,934,300 |
| Digital TV Markets 26-50 | 181 | 1 | 5,525,025 | 5,471,684 | 30,230 | 30,225 | 5,470,725 |
| Digital TV Markets 51-100 | 285 | 1 | 4,301,600 | 4,314,986 | 15,140 | 15,150 | 4,317,750 |
| Digital TV Remaining Markets | 367 | 1 | 1,825,000 | 1,818,320 | 4,955 | 4,950 | 1,816,650 |
| Digital TV Construction Permits ¹ | 3 | 1 | 15,000 | 14,864 | 4,955 | 4,950 | 14,850 |

| Fee Category | FY 2017 Payment Units | Years | FY 2016 Revenue Estimate | Pro-Rated FY 2017 Revenue Require- ment | Computed FY 2017 Regulatory Fee | Rounded FY 2017 Reg. Fee | Expected FY 2017 Revenue |
|--|--------------------------|-------|--------------------------------|---|--|--------------------------------|--------------------------------|
| LPTV/Translators/ Boosters/Class A TV | 4,051 | 1 | 1,785,420 | 1,752,382 | 433 | 435 | 1,762,185 |
| CARS Stations | 230 | 1 | 220,875 | 216,340 | 941 | 940 | 216,200 |
| Cable TV Systems, including IPTV | 62,000,000 | 1 | 64,200,000 | 59,253,400 | .9557 | .96 | 59,520,000 |
| Direct Broadcast Satellite (DBS) | 32,500,000 | 1 | 9,180,000 | 12,424,100 | .38 | .38 | 12,350,000 |
| Interstate Telecommunication Service Providers | \$37,300,000,000 | 1 | 142,722,000 | 112,571,400 | 0.003018 | 0.00302 | 112,646,000 |
| Toll Free Numbers | 32,700,000 | 1 | 4,745,000 | 3,947,544 | 0.1207 | 0.12 | 3,924,000 |
| CMRS Mobile Services (Cellular/Public Mobile) | 385,000,000 | 1 | 73,200,000 | 81,336,108 | 0.211 | 0.21 | 80,850,000 |
| CMRS Messag. Services | 2,100,000 | 1 | 184,000 | 168,000 | 0.0800 | 0.080 | 168,000 |
| BRS ² | 870 | 1 | 645,250 | 561,398 | 805 | 805 | 700,350 |
| LMDS | 395 | 1 | 286,375 | 456,976 | 805 | 805 | 317,975 |
| Per 64 kbps Int'l Bearer Circuits Terrestrial (Common) & Satellite (Common & Non-Common) | 26,500,000 | 1 | 638,000 | 791,219 | .0299 | .03 | 795,000 |
| Submarine Cable Providers (see chart in Appendix C) ³ | 41.19 | 1 | 5,486,242 | 5,589,583 | 135,709 | 135,700 | 5,589,212 |
| Earth Stations | 3,400 | 1 | 1,173,000 | 1,228,896 | 361 | 360 | 1,224,000 |
| Space Stations (Geostationary) | 95 | 1 | 13,155,125 | 13,725,182 | 144,476 | 144,475 | 13,725,125 |
| Space Stations (Non- Geostationary) | 6 | 1 | 911,700 | 951,190 | 158,532 | 158,525 | 951,150 |
| ***** Total Estimated Revenue to be Collected | | | 384,890,362 | 359,083,693 | | | 358,855,322 |
| ***** Total Revenue Requirement | | | 384,012,497 | 356,710,992 | | | 356,710,992 |
| Difference | | | 877,865 | 2,372,701 | | | 2,144,330 |

Notes on Table 3

¹ The AM and FM Construction Permit revenues and the Digital (VHF/UHF) Construction Permit revenues were adjusted, respectively, to set the regulatory fee to an amount no higher than the lowest licensed fee for that class of service. Reductions in the Digital (VHF/UHF) Construction Permit revenues, and in the AM and FM Construction Permit revenues, were offset by increases in the revenue totals for Digital television stations by market size, and in the AM and FM radio stations by class size and population served, respectively.

² MDS/MMDS category was renamed Broadband Radio Service (BRS). See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, Report & Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165, 14169, para. 6 (2004).

³ The chart at the end of Table 4 lists the submarine cable bearer circuit regulatory fees (common and non-common carrier basis) that resulted from the adoption of the Assessment and Collection of Regulatory Fees for Fiscal Year 2008, Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6388 (2008) and Assessment and Collection of Regulatory Fees for Fiscal Year 2008, Second Report and Order, 24 FCC Rcd 4208 (2009).

⁴ The fee amounts listed in the column entitled "Rounded New FY 2017 Regulatory Fee" constitute a weighted average broadcast regulatory fee by class of service. The actual FY 2017 regulatory fees for AM/FM radio station are listed on a grid located at the end of Table 4.

TABLE 4**Proposed Regulatory Fees**

Regulatory fees in the first eight fee categories are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.

| Fee Category | Annual Regulatory Fee (U.S. \$'s) |
|---|--|
| PLMRS (per license) (Exclusive Use) (47 CFR part 90) | 25 |
| Microwave (per license) (47 CFR part 101) | 25 |
| Marine (Ship) (per station) (47 CFR part 80) | 15 |
| Marine (Coast) (per license) (47 CFR part 80) | 40 |
| Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category) | 10 |
| PLMRS (Shared Use) (per license) (47 CFR part 90) | 10 |
| Aviation (Aircraft) (per station) (47 CFR part 87) | 10 |
| Aviation (Ground) (per license) (47 CFR part 87) | 20 |
| CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90) | .21 |
| CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90) | .08 |
| Broadband Radio Service (formerly MMDS/ MDS) (per license) (47 CFR part 27) | 805 |
| Local Multipoint Distribution Service (per call sign) (47 CFR, part 101) | 805 |
| AM Radio Construction Permits | 650 |
| FM Radio Construction Permits | 1,150 |
| Digital TV (47 CFR part 73) VHF and UHF Commercial | |
| Markets 1-10 | 60,100 |
| Markets 11-25 | 45,300 |
| Markets 26-50 | 30,225 |
| Markets 51-100 | 15,150 |
| Remaining Markets | 4,950 |
| Construction Permits | 4,950 |
| Satellite Television Stations (All Markets) | 1,725 |
| Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74) | 435 |

| Fee Category | Annual Regulatory Fee (U.S. \$'s) |
|--|--|
| CARS (47 CFR part 78) | 940 |
| Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV | .96 |
| Direct Broadcast Service (DBS) (per subscriber) (as defined by section 602(13) of the Act) | .38 |
| Interstate Telecommunication Service Providers (per revenue dollar) | .00302 |
| Toll Free (per toll free subscriber) (47 C.F.R. section 52.101 (f) of the rules) | .12 |
| Earth Stations (47 CFR part 25) | 360 |
| Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100) | 144,475 |
| Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) | 158,525 |
| International Bearer Circuits - Terrestrial/Satellites (per 64KB circuit) | .03 |
| Submarine Cable Landing Licenses Fee (per cable system) | See Table Below |
| | |

| FY 2017 RADIO STATION REGULATORY FEES | | | | | | |
|--|-------------------|-------------------|-------------------|-------------------|----------------------------------|---|
| Population Served | AM Class A | AM Class B | AM Class C | AM Class D | FM Classes A, B1 & C3 | FM Classes B, C, C0, C1 & C2 |
| <=25,000 | \$1,050 | \$750 | \$650 | \$715 | \$1,150 | \$1,300 |
| 25,001 – 75,000 | \$1,575 | \$1,125 | \$975 | \$1,075 | \$1,725 | \$1,950 |
| 75,001 – 150,000 | \$2,375 | \$1,700 | \$1,475 | \$1,600 | \$2,600 | \$2,925 |
| 150,001 – 500,000 | \$3,550 | \$2,525 | \$2,200 | \$2,425 | \$3,875 | \$4,400 |
| 500,001 – 1,200,000 | \$5,325 | \$3,800 | \$3,300 | \$3,625 | \$5,825 | \$6,575 |
| 1,200,001 – 3,000,00 | \$7,975 | \$5,700 | \$4,950 | \$5,425 | \$8,750 | \$9,875 |
| 3,000,001 – 6,000,00 | \$11,950 | \$8,550 | \$7,400 | \$8,150 | \$13,100 | \$14,800 |
| >6,000,000 | \$17,950 | \$12,825 | \$11,100 | \$12,225 | \$19,650 | \$22,225 |

International Bearer Circuits - Submarine Cable

| Submarine Cable Systems (capacity as of December 31, 2016) | Fee amount |
|---|-------------------|
| < 2.5 Gbps | \$8,475 |
| 2.5 Gbps or greater, but less than 5 Gbps | \$16,975 |
| 5 Gbps or greater, but less than 10 Gbps | \$33,925 |
| 10 Gbps or greater, but less than 20 Gbps | \$67,850 |
| 20 Gbps or greater | \$135,700 |

TABLE 5

Sources of Payment Unit Estimates for FY 2017

In order to calculate individual service fees for FY 2017, we adjusted FY 2016 payment units for each service to more accurately reflect expected FY 2017 payment liabilities. We obtained our updated estimates through a variety of means. For example, we used Commission licensee data bases, actual prior year payment records and industry and trade association projections when available. The databases we consulted include our Universal Licensing System (ULS), International Bureau Filing System (IBFS), Consolidated Database System (CDBS) and Cable Operations and Licensing System (COALS), as well as reports generated within the Commission such as the Wireless Telecommunications Bureau's Numbering Resource Utilization Forecast.

We sought verification for these estimates from multiple sources and, in all cases, we compared FY 2017 estimates with actual FY 2016 payment units to ensure that our revised estimates were reasonable. Where appropriate, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated with sufficient accuracy. These include an unknown number of waivers and/or exemptions that may occur in FY 2017 and the fact that, in many services, the number of actual licensees or station operators fluctuates from time to time due to economic, technical, or other reasons. When we note, for example, that our estimated FY 2017 payment units are based on FY 2016 actual payment units, it does not necessarily mean that our FY 2017 projection is exactly the same number as in FY 2016. We have either rounded the FY 2017 number or adjusted it slightly to account for these variables.

| FEE CATEGORY | SOURCES OF PAYMENT UNIT ESTIMATES |
|--|---|
| Land Mobile (All), Microwave, Marine (Ship & Coast), Aviation (Aircraft & Ground), Domestic Public Fixed | Based on Wireless Telecommunications Bureau (WTB) projections of new applications and renewals taking into consideration existing Commission licensee data bases. Aviation (Aircraft) and Marine (Ship) estimates have been adjusted to take into consideration the licensing of portions of these services on a voluntary basis. |
| CMRS Cellular/Mobile Services | Based on WTB projection reports, and FY 16 payment data. |

| | |
|---|--|
| CMRS Messaging Services | Based on WTB reports, and FY 16 payment data. |
| AM/FM Radio Stations | Based on CDBS data, adjusted for exemptions, and actual FY 2016 payment units. |
| Digital TV Stations (Combined VHF/UHF units) | Based on CDBS data, adjusted for exemptions, and actual FY 2016 payment units. |
| AM/FM/TV Construction Permits | Based on CDBS data, adjusted for exemptions, and actual FY 2016 payment units. |
| LPTV, Translators and Boosters, Class A Television | Based on CDBS data, adjusted for exemptions, and actual FY 2016 payment units. |
| BRS (formerly MDS/MMDS) LMDS | Based on WTB reports and actual FY 2016 payment units. Based on WTB reports and actual FY 2016 payment units. |
| Cable Television Relay Service (CARS) Stations | Based on data from Media Bureau's COALS database and actual FY 2016 payment units. |
| Cable Television System Subscribers, Including IPTV Subscribers | Based on publicly available data sources for estimated subscriber counts and actual FY 2016 payment units. |
| Interstate Telecommunication Service Providers | Based on FCC Form 499-Q data for the four quarters of calendar year 2016, the Wireline Competition Bureau projected the amount of calendar year 2016 revenue that will be reported on 2017 FCC Form 499-A worksheets due in April, 2017. |
| Earth Stations | Based on International Bureau ("IB") licensing data and actual FY 2016 payment units. |
| Space Stations (GSOs & NGSOs) | Based on IB data reports and actual FY 2016 payment units. |
| International Bearer Circuits | Based on IB reports and submissions by licensees, adjusted as necessary. |
| Submarine Cable Licenses | Based on IB license information. |

TABLE 6

**Factors, Measurements, and Calculations that Determine Station Signal Contours
and Associated Population Coverages**

AM Stations

For stations with nondirectional daytime antennas, the theoretical radiation was used at all azimuths. For stations with directional daytime antennas, specific information on each day tower, including field ratio, phase, spacing, and orientation was retrieved, as well as the theoretical pattern root-mean-square of the radiation in all directions in the horizontal plane (RMS) figure (milliVolt per meter (mV/m) @ 1 km) for the antenna system. The standard, or augmented standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in sections 73.150 and 73.152 of the Commission's rules. Radiation values were calculated for each of 360 radials around the transmitter site. Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure R3. Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the principal community (5 mV/m) contour was predicted for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. (A block centroid is the center point of a small area containing population as computed by the U.S. Census Bureau.) The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

FM Stations

The greater of the horizontal or vertical effective radiated power (ERP) (kW) and respective height above average terrain (HAAT) (m) combination was used. Where the antenna height above mean sea level (HAMSL) was available, it was used in lieu of the average HAAT figure to

calculate specific HAAT figures for each of 360 radials under study. Any available directional pattern information was applied as well, to produce a radial-specific ERP figure. The HAAT and ERP figures were used in conjunction with the Field Strength (50-50) propagation curves specified in 47 CFR § 73.313 of the Commission's rules to predict the distance to the principal community (70 dBu (decibel above 1 microVolt per meter) or 3.17 mV/m) contour for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

TABLE 7

**LIST OF THE LICENSED SATELLITE TELEVISION STATIONS BASED ON
COMMISSION RECORDS (ALL MARKETS)**

| <u>FCC ID</u> | <u>Call Sign</u> | <u>TV Market</u> | <u>Licensee as of September 28, 2016</u> |
|----------------------|-------------------------|--|---|
| 11912 | KAAS-TV | Wichita - Hutchinson, KS | KSAS LICENSEE, LLC |
| 48659 | KABY-TV | Sioux Falls-Mitchell, SD | GRAY TELEVISION LICENSEE, LLC |
| 4145 | KAIH-TV | Honolulu, HI | LIN LICENSE COMPANY, LLC |
| 13813 | KATN | Fairbanks, AK | VISION ALASKA II LLC |
| 48556 | KBIM-TV | Albuquerque-Santa Fe, NM | LIN OF NEW MEXICO, LLC |
| 55370 | KBRR | Fargo-Valley City, ND | RED RIVER BROADCAST CO., LLC |
| 66414 | KBSD-DT | Wichita - Hutchinson, KS | GRAY TELEVISION LICENSEE, LLC |
| 66415 | KBSH-DT | Wichita - Hutchinson, KS | GRAY TELEVISION LICENSEE, LLC |
| 66416 | KBSL-DT | Wichita - Hutchinson, KS | GRAY TELEVISION LICENSEE, LLC |
| 6669 | KBTX-TV | Waco-Temple-Bryan, TX | GRAY TELEVISION LICENSEE, LLC |
| 35909 | KBVO | Austin, TX | KXAN LLC |
| 49750 | KCBY-TV | Eugene, OR | SINCLAIR EUGENE LICENSEE, LLC |
| 9632 | KCCO-TV | Minneapolis - St. Paul, MN | CBS BROADCASTING INC. |
| 9640 | KCCW-TV | Minneapolis - St. Paul, MN | CBS BROADCASTING INC. |
| 18079 | KCFW-TV | Missoula, MT | BLUESTONE LICENSE HOLDINGS INC. |
| 41969 | KCLO-TV | Rapid City, SD | YOUNG BROADCASTING OF RAPID CITY, INC. |
| 60740 | KDKF | Medford-Klamath Falls, OR | OREGON TV LICENSE COMPANY LLC |
| 41975 | KDLO-TV | Sioux Falls-Mitchell, SD | YOUNG BROADCASTING OF SIOUX FALLS, INC. |
| 55375 | KDLV-TV | Sioux Falls-Mitchell, SD | RED RIVER BROADCAST CO., LLC |
| 56029 | KEPR-TV | Yakima-Pasco-Richland -Kennewick, WA | SINCLAIR YAKIMA LICENSEE, LLC |
| 125 | KFCT | Denver, CO | TRIBUNE BROADCASTING DENVER LICENSE |
| 21613 | KFNE | Casper-Riverton, WY | WYOMEDIA CORPORATION |
| 21612 | KFNR | Casper-Riverton, WY | WYOMEDIA CORPORATION |
| 83714 | KFTC | Minneapolis - St. Paul, MN | FOX TELEVISION STATIONS, LLC |
| 7894 | KGIN | Lincoln-Hastings-Kearney, NE | GRAY TELEVISION LICENSEE, LLC |
| 36914 | KGMD-TV | Honolulu, HI | HITV LICENSE SUBSIDIARY, INC. |
| 36920 | KGMV | Honolulu, HI | HITV LICENSE SUBSIDIARY, INC. |
| 63162 | KGWL-TV | Casper-Riverton, WY | MARK III MEDIA, INC. |
| 63170 | KGWR-TV | Casper-Riverton, WY | MARK III MEDIA, INC. |
| 4146 | KHAW-TV | Honolulu, HI | LIN LICENSE COMPANY, LLC |
| 34846 | KHBC-TV | Honolulu, HI | KHNL/KGMB LICENSE SUBSIDIARY, LLC |
| 60354 | KHOG-TV | Ft. Smith-Fayetteville -Springdale-Rogers, AR | KHBS HEARST TELEVISION INC. |
| 34348 | KHSD-TV | Rapid City, SD | GRAY TELEVISION LICENSEE, LLC |
| 64544 | KHVO | Honolulu, HI | KITV, INC. |
| 55364 | KJRR | Fargo-Valley City, ND | RED RIVER BROADCAST CO., LLC |

| | | | |
|-------|---------|--|---|
| 1283 | KJWP | Philadelphia, PA | PMCM TV, LLC |
| 65523 | KLBY | Wichita - Hutchinson, KS | KNOXVILLE TV LLC |
| 664 | KLEI-TV | Honolulu, HI | MAUNA KEA BROADCASTING COMPANY, INC. |
| 56032 | KLEW-TV | Spokane, WA | SINCLAIR LEWISTON LICENSEE, LLC |
| 64551 | KMAU | Honolulu, HI | KITV, INC. |
| 35183 | KMCB | Eugene, OR | KMTR TELEVISION, LLC |
| 22127 | KMCY | Minot-Bismarck-Dickinson, ND | KBMY-KMCY, LLC |
| 41425 | KMOT | Minot-Bismarck-Dickinson, ND | GRAY TELEVISION LICENSEE, LLC |
| 82615 | KNDM | Minot-Bismarck-Dickinson, ND | LEGACY BROADCASTING, LLC |
| 12427 | KNDU | Yakima-Pasco-Richland -Kennewick, WA | KHQ, INCORPORATED |
| 17683 | KNEP | Cheyenne, WY-Scottsbluff, NE | GRAY TELEVISION LICENSEE, LLC |
| 55362 | KNRR | Fargo-Valley City, ND | RED RIVER BROADCAST CO., LLC |
| 29557 | KNWA-TV | Ft. Smith-Fayetteville -Springdale-Rogers, AR | NEXSTAR BROADCASTING, INC. |
| 35321 | KOBF | Albuquerque-Santa Fe, NM | KOB-TV, LLC |
| 62272 | KOBR | Albuquerque-Santa Fe, NM | KOB-TV, LLC |
| 83181 | KOCW | Wichita - Hutchinson, KS | KSAS LICENSEE, LLC |
| 34859 | KOGG | Honolulu, HI | KHNL/KGMB LICENSE SUBSIDIARY, LLC |
| 8284 | KOTI | Medford-Klamath Falls, OR | CALIFORNIA OREGON BROADCASTING, INC. |
| 61551 | KPIC | Eugene, OR | SOUTH WEST OREGON TV BROAD. CORP. |
| 41964 | KPLO-TV | Sioux Falls-Mitchell, SD | YOUNG BROADCASTING OF SIOUX FALLS, INC. |
| 73998 | KPOB-TV | Paducah-Cape Girardeau -Harrisburg-Mt Vernon | WSIL-TV, INC. |
| 48660 | KPRY-TV | Sioux Falls-Mitchell, SD | GRAY TELEVISION LICENSEE, LLC |
| 41430 | KQCD-TV | Minot-Bismarck-Dickinson, ND | GRAY TELEVISION LICENSEE, LLC |
| 17686 | KQME | Rapid City, SD | LEGACY BROADCASTING OF RAPID CITY LLC |
| 70578 | KREG-TV | Denver, CO | NEXSTAR BROADCASTING, INC. |
| 70579 | KREY-TV | Grand Junction-Montrose, CO | NEXSTAR BROADCASTING, INC. |
| 48589 | KREZ-TV | Albuquerque-Santa Fe, NM | LIN OF COLORADO, LLC |
| 82698 | KRII | Duluth, MN-Superior, WI | KBJR LICENSE, LLC |
| 82613 | KRTN-TV | Albuquerque-Santa Fe, NM | RAMAR COMMUNICATIONS, INC. |
| 84157 | KRWB-TV | Albuquerque-Santa Fe, NM | KASY-TV LICENSEE LLC |
| 35585 | KRWF | Minneapolis - St. Paul, MN | KSAX-TV, INC. |
| 307 | KSAN-TV | San Angelo, TX | MISSION BROADCASTING, INC. |
| 35584 | KSAX | Minneapolis - St. Paul, MN | KSAX-TV, INC. |
| 17680 | KSGW-TV | Rapid City, SD | GRAY TELEVISION LICENSEE, LLC |
| 72359 | KSNC | Wichita - Hutchinson, KS | LIN LICENSE COMPANY, LLC |
| 72361 | KSNG | Wichita - Hutchinson, KS | LIN LICENSE COMPANY, LLC |
| 72362 | KSNK | Wichita - Hutchinson, KS | LIN LICENSE COMPANY, LLC |
| 63182 | KSTF | Cheyenne, WY-Scottsbluff, NE | GRAY TELEVISION LICENSEE, LLC |
| 35187 | KTCW | Eugene, OR | KMTR TELEVISION, LLC |
| 68541 | KTRE | Tyler-Longview, TX | KLTV/KTRE LICENSE SUBSIDIARY, LLC |
| 28501 | KTTM | Sioux Falls-Mitchell, SD | INDEPENDENT COMMUNICATIONS, INC. |

| | | | |
|-------|---------|---|--|
| 18066 | KTVM-TV | Butte-Bozeman, MT | BLUESTONE LICENSE HOLDINGS INC. |
| 41429 | KUMV-TV | Minot-Bismarck-Dickinson, ND | GRAY TELEVISION LICENSEE, LLC |
| 65535 | KUPK | Wichita - Hutchinson, KS | KNOXVILLE TV LLC |
| 2495 | KVEW | Yakima-Pasco-Richland -Kennewick, WA | APPLE VALLEY BROADCASTING, INC. |
| 40450 | KVIH-TV | Amarillo, TX | KVII LICENSEE, LLC |
| 33078 | KVTV | Laredo, TX | EAGLE CREEK BROADCASTING OF LAREDO |
| 42008 | KWAB-TV | Odessa-Midland, TX | KWES LICENSE SUBSIDIARY, LLC |
| 21162 | KWNB-TV | Lincoln-Hastings-Kearney, NE | KHGI LICENSEE, LLC |
| 55684 | KXMA-TV | Minot-Bismarck-Dickinson, ND | NEXSTAR BROADCASTING, INC. |
| 55686 | KXMB-TV | Minot-Bismarck-Dickinson, ND | NEXSTAR BROADCASTING, INC. |
| 55683 | KXMD-TV | Minot-Bismarck-Dickinson, ND | NEXSTAR BROADCASTING, INC. |
| 60384 | KYLE-TV | Waco-Temple-Bryan, TX | NEXSTAR BROADCASTING, INC. |
| 5237 | KYUS-TV | Billings, MT | KYUS-TV BROADCASTING CORPORATION |
| 76001 | WBKP | Marquette, MI | LAKE SUPERIOR COMMUNITY BROAD. CORP. |
| 69544 | WCCU | Champaign-Springfield -Decatur, IL | GOCOM MEDIA OF ILLINOIS, LLC |
| 74419 | WCDC-TV | Albany-Schenectady-Troy, NY | YOUNG BROADCASTING OF ALBANY, INC. |
| 42116 | WCIX | Champaign-Springfield -Decatur, IL | NEXSTAR BROADCASTING, INC. |
| 22124 | WDAZ-TV | Fargo-Valley City, ND | FORUM COMMUNICATIONS COMPANY |
| 71325 | WDBB | Birmingham, AL | WDBB-TV, INC. |
| 6476 | WDPX-TV | Boston, MA | ION MEDIA BOSTON LICENSE, INC. |
| 2709 | WEUX | La Crosse-Eau Claire, WI | NEXSTAR BROADCASTING, INC. |
| 60553 | WFTY-DT | New York, NY | UNIVISION NEW YORK LLC |
| 25395 | WFUP | Traverse City-Cadillac, MI | CADILLAC TELECASTING CO. |
| 59279 | WGTQ | Traverse City-Cadillac, MI | TRAVERSE CITY (WGTU-TV) LICENSEE, INC. |
| 48668 | WHLT | Hattiesburg-Laurel, MS | MEDIA GENERAL COMMUNICATIONS HOLDINGS |
| 25684 | WICD | Champaign-Springfield -Decatur, IL | WICD LICENSEE, LLC |
| 39887 | WIRS | San Juan, PR | AMERICA-CV STATION GROUP, INC. |
| 71336 | WIRT-DT | Duluth, MN-Superior, WI | WDIO-TV, LLC |
| 68519 | WJKT | Jackson, TN | NEXSTAR BROADCASTING, INC. |
| 86537 | WJLP | New York, NY | PMCM TV, LLC |
| 9630 | WJMN-TV | Marquette, MI | NEXSTAR BROADCASTING, INC. |
| 58342 | WJWN-TV | San Juan, PR | AMERICA-CV STATION GROUP, INC. |
| 58341 | WKPV | San Juan, PR | AMERICA-CV STATION GROUP, INC. |
| 73336 | WNJX-TV | San Juan, PR | TELEVICENTRO OF PUERTO RICO, LLC |
| 73344 | WNNE | Burlington, VT-Plattsburgh, NY | HEARST STATIONS INC. |
| 16539 | WNTZ-TV | Alexandria, LA | NEXSTAR BROADCASTING, INC. |
| 64865 | WORA-TV | San Juan, PR | TELECINCO, INC. |
| 48406 | WPXG-TV | Boston, MA | ION MEDIA BOSTON LICENSE, INC. |
| 37971 | WPXU-TV | Greenville-New Bern -Washington, NC | ION MEDIA JACKSONVILLE LICENSE, INC. |

| | | | |
|-------|---------|--|--|
| 64550 | WQOW | La Crosse-Eau Claire, WI | WXOW-WQOW LICENSE, LLC |
| 19776 | WSUR-DT | San Juan, PR | WLII/WSUR LICENSE PARTNERSHIP, G.P. |
| 26681 | WTIN-TV | San Juan, PR | TELEVICENTRO OF PUERTO RICO, LLC |
| 21254 | WTOM-TV | Traverse City-Cadillac, MI | WPBN LICENSEE, LLC |
| 56526 | WTTK | Indianapolis, IN | TRIBUNE BROADCASTING INDIANAPOLIS, LLC |
| 61573 | WVEO | San Juan, PR | SPANISH BROAD. SYSTEM HOLDING CO. |
| 24812 | WWCW | Roanoke-Lynchburg, VA | NEXSTAR BROADCASTING, INC. |
| 23264 | WWPX-TV | Washington, DC | ION MEDIA MARTINSBURG LICENSE, INC. |
| 26993 | WWUP-TV | Traverse City-Cadillac, MI | HERITAGE BROAD. COMPANY OF MICHIGAN |
| 35582 | WYDO | Greenville-New Bern -Washington, NC | ESTEEM BROADCASTING OF NORTH CAROLINA |
| 77789 | WYOW | Wausau-Rhineland, WI | WAOW-WYOW LICENSE, LLC |
| 83270 | WZVI | Virgin Islands | ALPHA BROADCASTING CORPORATION |

TABLE 8**FY 2016 Schedule of Regulatory Fees**

Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.

| Fee Category | Annual Regulatory Fee (U.S. \$s) |
|---|---|
| PLMRS (per license) (Exclusive Use) (47 CFR part 90) | 25 |
| Microwave (per license) (47 CFR part 101) | 25 |
| Marine (Ship) (per station) (47 CFR part 80) | 15 |
| Marine (Coast) (per license) (47 CFR part 80) | 40 |
| Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category) | 10 |
| PLMRS (Shared Use) (per license) (47 CFR part 90) | 10 |
| Aviation (Aircraft) (per station) (47 CFR part 87) | 10 |
| Aviation (Ground) (per license) (47 CFR part 87) | 20 |
| CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90) | .20 |
| CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90) | .08 |
| Broadband Radio Service (formerly MMDS/ MDS) (per license) (47 CFR part 27) | 725 |
| Local Multipoint Distribution Service (per call sign) (47 CFR, part 101) | 725 |
| AM Radio Construction Permits | 620 |
| FM Radio Construction Permits | 1,075 |
| Digital TV (47 CFR part 73) VHF and UHF Commercial | |
| Markets 1-10 | 60,675 |
| Markets 11-25 | 45,675 |
| Markets 26-50 | 30,525 |
| Markets 51-100 | 15,200 |
| Remaining Markets | 5,000 |
| Construction Permits | 5,000 |
| Satellite Television Stations (All Markets) | 1,750 |
| Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74) | 455 |
| CARS (47 CFR part 78) | 775 |

| Fee Category | Annual Regulatory Fee (U.S. \$s) |
|--|---|
| Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV | 1.00 |
| Direct Broadcast Service (DBS) (per subscriber) (as defined by section 602(13) of the Act) | .27 |
| Interstate Telecommunication Service Providers (per revenue dollar) | .00371 |
| Toll Free (per toll free subscriber) (47 CFR section 52.101 (f) of the rules) | .13 |
| Earth Stations (47 CFR part 25) | 345 |
| Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100) | 138,475 |
| Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) | 151,950 |
| International Bearer Circuits -- Terrestrial/Satellites (per 64KB circuit) | .02 |
| Submarine Cable Landing Licenses Fee (per cable system) | See Table Below |
| | |

FY 2016 SCHEDULE OF REGULATORY FEES: (continued)

| FY 2016 RADIO STATION REGULATORY FEES | | | | | | |
|--|-----------------------|-----------------------|-----------------------|-----------------------|--------------------------------------|---|
| Population Served | AM Class A | AM Class B | AM Class C | AM Class D | FM Classes A, B1 & C3 | FM Classes B, C, C0, C1 & C2 |
| <=25,000 | \$990 | \$715 | \$620 | \$685 | \$1,075 | \$1,250 |
| 25,001 – 75,000 | \$1,475 | \$1,075 | \$925 | \$1,025 | \$1,625 | \$1,850 |
| 75,001 – 150,000 | \$2,200 | \$1,600 | \$1,375 | \$1,525 | \$2,400 | \$2,750 |
| 150,001 – 500,000 | \$3,300 | \$2,375 | \$2,075 | \$2,275 | \$3,600 | \$4,125 |
| 500,001 – 1,200,000 | \$5,500 | \$3,975 | \$3,450 | \$3,800 | \$6,000 | \$6,875 |
| 1,200,001 – 3,000,00 | \$8,250 | \$5,950 | \$5,175 | \$5,700 | \$9,000 | \$10,300 |
| 3,000,001 – 6,000,00 | \$11,000 | \$7,950 | \$6,900 | \$7,600 | \$12,000 | \$13,750 |
| >6,000,000 | \$13,750 | \$9,950 | \$8,625 | \$9,500 | \$15,000 | \$17,175 |

FY 2016 SCHEDULE OF REGULATORY FEES (continued)**International Bearer Circuits - Submarine Cable**

| Submarine Cable Systems (capacity as of December 31, 2015) | Fee amount |
|---|------------|
| < 2.5 Gbps | \$8,325 |
| 2.5 Gbps or greater, but less than 5 Gbps | \$16,650 |
| 5 Gbps or greater, but less than 10 Gbps | \$33,300 |
| 10 Gbps or greater, but less than 20 Gbps | \$66,600 |
| 20 Gbps or greater | \$133,200 |

VII.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹¹³ the Commission prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Notice of Proposed Rulemaking (NPRM). Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on this NPRM. The Commission will send a copy of the NPRM, including the IRFA, to the NPRM and IRFA (or summaries thereof) will be published in the Federal Register.¹¹⁴

A. Need for, and Objectives of, the Notice

2. This NPRM seeks comment regarding adopting proposed regulatory fees for Fiscal Year 2017. The proposed regulatory fees are attached to the NPRM in Table 4. This regulatory fee NPRM is needed each year because the Commission is required by Congress to adopt regulatory fees each year “to recover the costs of . . . enforcement activities, policy and rulemaking activities, user information services, and international activities.”¹¹⁵ The objective of this NPRM is to propose regulatory fees for fiscal year 2017 and adopt regulatory fee reform to improve the regulatory fee process. This NPRM seeks comment on the following proposals. (i) The NPRM proposes an increase in the DBS fee rate to 38 cents per DBS subscriber so that the DBS fee would be approaching parity with the cable television/IPTV fee, based on the Media Bureau FTEs devoted to issues that include DBS. (ii) The NPRM seeks comment on revising rates for AM and FM broadcasters and further reducing rates for those broadcasters in smaller markets. (iii) The NPRM seeks comment on correctly identifying satellite television operators and ensuring that they pay the regulatory fee associated with satellite television. (iv) The NPRM seeks comment on adopting a new methodology for determining terrestrial international bearer circuit

¹¹³ 5 U.S.C. 603. The RFA, 5 U.S.C. 601-612 has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104-121, Title II, 110 Stat. 847 (1996).

¹¹⁴ Id.

¹¹⁵ 47 U.S.C. 159(a).

regulatory fees. (v) The NPRM seeks comment on providing additional regulatory fee relief to smaller entities by increasing the de minimis threshold from \$500 to \$1,000; allowing multiyear fee categories to be de minimis if the licensees' total fee for the year is no greater than the de minimis threshold; and eliminating certain fee categories from regulatory fees. (vi) The NPRM seeks comment on a proposal to reassign certain Wireline Competition Bureau FTEs and Wireless Telecommunications Bureau FTEs as indirect FTEs and reassign certain Wireline Competition Bureau FTEs as Wireless Telecommunications Bureau FTEs, for regulatory fee purposes.

B. Legal Basis

3. This action, including publication of proposed rules, is authorized under sections (4)(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended.¹¹⁶

C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

4. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.¹¹⁷ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."¹¹⁸ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.¹¹⁹ A "small

¹¹⁶ 47 U.S.C. 154(i) and (j), 159, and 303(r).

¹¹⁷ 5 U.S.C. 603(b)(3).

¹¹⁸ 5 U.S.C. 601(6).

¹¹⁹ 5 U.S.C. 601(3) (incorporating by reference the definition of "small-business concern" in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.¹²⁰

5. **Small Entities.** Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive small entity size standards that could be directly affected by the proposals under consideration.¹²¹ As of 2009, small businesses represented 99.9 percent of the 27.5 million businesses in the United States, according to the SBA.¹²² In addition, a “small organization is generally any not-for-profit enterprise which is independently owned and operated and not dominant in its field.”¹²³ In addition, the term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”¹²⁴ U.S. Census Bureau data for 2011 indicate that there were 90,056 local governmental jurisdictions in the United States.¹²⁵ We estimate that, of this total, as many as 89,327 entities may qualify as “small governmental jurisdictions.”¹²⁶ Thus, we estimate that most local government jurisdictions are small.

6. **Wired Telecommunications Carriers.** The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using

¹²⁰ 15 U.S.C. 632.

¹²¹ See 5 U.S.C. 601(3)through (6).

¹²² See SBA, Office of Advocacy, “Frequently Asked Questions,” available at https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf.

¹²³ 5 U.S.C. 601(4).

¹²⁴ 5 U.S.C. 601(5).

¹²⁵ See SBA, Office of Advocacy, “Frequently Asked Questions,” available at https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf.

¹²⁶ The 2011 U.S. Census Data for small governmental organizations are not presented based on the size of the population in each organization. As stated above, there were 90,056 local governmental organizations in 2011. As a basis for estimating how many of these 90,056 local governmental organizations were small, we note that there were a total of 729 cities and towns (incorporated places and civil divisions) with populations over 50,000. See http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table. If we subtract the 729 cities and towns that exceed the 50,000 population threshold, we conclude that approximately 789,237 are small.

wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.”¹²⁷ The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.¹²⁸ Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.¹²⁹ Thus, under this size standard, the majority of firms in this industry can be considered small.

7. **Local Exchange Carriers (LECs).** Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS code category is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹³⁰ According to census data from 2012, there were 3,117 establishments that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.¹³¹ The Commission estimates that most providers of local exchange service are small entities that may be affected by the rules proposed in the NPRM.

8. **Incumbent LECs.** Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS code category is Wired Telecommunications Carriers. Under that size standard, such a business is small if it

¹²⁷ See <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

¹²⁸ See 13 CFR 120.201, NAICS code 517110.

¹²⁹ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

¹³⁰ 13 CFR 121.201, NAICS code 517110.

¹³¹ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

has 1,500 or fewer employees.¹³² According to census data from 2012, 3,117 firms operated in that year. Of this total, 3,083 operated with fewer than 1,000 employees.¹³³ According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers.¹³⁴ Of this total of 1,307 incumbent local exchange service providers, an estimated 1,006 operated with 1,500 or fewer employees.¹³⁵ Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules proposed in this NPRM.

9. Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS code category is Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹³⁶ U.S. Census data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees.¹³⁷ Based on this data, the Commission concludes that the majority of Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers are small entities. According to the Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.¹³⁸ Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.¹³⁹ Also, 72

¹³² 13 CFR 121.201, NAICS code 517110.

¹³³ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

¹³⁴ See Trends in Telephone Service, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (September 2010) (Trends in Telephone Service).

¹³⁵ See id.

¹³⁶ 13 CFR 121.201, NAICS code 517110.

¹³⁷ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

¹³⁸ See Trends in Telephone Service, at Table 5.3.

¹³⁹ Id.

carriers have reported that they are Other Local Service Providers.¹⁴⁰ Of this total, 70 have 1,500 or fewer employees.¹⁴¹ Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules proposed in this NPRM.

10. **Interexchange Carriers (IXCs).** Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS code category is Wired Telecommunications Carriers as defined in paragraph 6 of this IRFA. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.¹⁴² U.S. Census data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees.¹⁴³ According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.¹⁴⁴ Of this total, an estimated 317 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules proposed in this NPRM.

11. **Prepaid Calling Card Providers.** Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate NAICS code category for prepaid calling card providers is Telecommunications Resellers. This industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual networks operators (MVNOs) are

¹⁴⁰ Id.

¹⁴¹ Id.

¹⁴² 13 CFR 121.201, NAICS code 517110.

¹⁴³ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

¹⁴⁴ See Trends in Telephone Service, at Table 5.3.

included in this industry.¹⁴⁵ Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.¹⁴⁶ U.S. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees.¹⁴⁷ Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of prepaid calling cards.¹⁴⁸ All 193 carriers have 1,500 or fewer employees.¹⁴⁹ Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by rules proposed in this NPRM.

12. **Local Resellers.** Neither the Commission nor the SBA has developed a small business size standard specifically for Local Resellers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹⁵⁰ Census data for 2012 show that 1,341 firms provided resale services during that year.¹⁵¹ Of that number, 1,341 operated with fewer than 1,000 employees.¹⁵² Under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services.¹⁵³ Of this total, an estimated 211 have 1,500 or fewer employees.¹⁵⁴ Consequently, the Commission estimates that the majority of local resellers are small entities that may be

¹⁴⁵ <http://www.census.gov/cgi-bin/ssd/naics/naicsrch>.

¹⁴⁶ 13 CFR 121.201, NAICS code 517911.

¹⁴⁷ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

¹⁴⁸ See Trends in Telephone Service, at Table 5.3.

¹⁴⁹ Id.

¹⁵⁰ 13 CFR 121.201, NAICS code 517911.

¹⁵¹ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

¹⁵² http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

¹⁵³ See Trends in Telephone Service, at Table 5.3.

¹⁵⁴ Id.

affected by rules proposed in this NPRM.

13. **Toll Resellers.** The Commission has not developed a definition for Toll Resellers. The closest NAICS code Category is Telecommunications Resellers, and the SBA has developed a small business size standard for the category of Telecommunications Resellers.¹⁵⁵ Under that size standard, such a business is small if it has 1,500 or fewer employees.¹⁵⁶ Census data for 2012 show that 1,341 firms provided resale services during that year.¹⁵⁷ Of that number, 1,341 operated with fewer than 1,000 employees.¹⁵⁸ Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services.¹⁵⁹ Of this total, an estimated 857 have 1,500 or fewer employees.¹⁶⁰ Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by the rules proposed in the NPRM.

14. **Other Toll Carriers.** Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS code category is for Wired Telecommunications Carriers, as defined in paragraph 6 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹⁶¹ Census data for 2012 shows that there were 3,117 firms that operated that year.¹⁶² Of this total, 3,083 operated with fewer than 1,000

¹⁵⁵ 13 CFR 121.201, NAICS code 517911.

¹⁵⁶ Id.

¹⁵⁷ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

¹⁵⁸ Id.

¹⁵⁹ Trends in Telephone Service at Table 5.3.

¹⁶⁰ Id.

¹⁶¹ 13 CFR 121.201, NAICS code 517110.

¹⁶² http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

employees.¹⁶³ Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage.¹⁶⁴ Of these, an estimated 279 have 1,500 or fewer employees.¹⁶⁵ Consequently, the Commission estimates that most Other Toll Carriers are small entities that may be affected by the rules proposed in the NPRM.

15. **Wireless Telecommunications Carriers (except Satellite).** This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services.¹⁶⁶ The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, Census Data for 2012 show that there were 967 firms that operated for the entire year.¹⁶⁷ Of this total, 955 firms had fewer than 1,000 employees.¹⁶⁸ Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services.¹⁶⁹ Of this total, an estimated 261 have 1,500 or fewer employees.¹⁷⁰ Thus, using available data, we estimate that the majority of wireless firms can be considered small and may be affected by rules proposed in this NPRM.

¹⁶³ Id.

¹⁶⁴ Trends in Telephone Service, at Table 5.3.

¹⁶⁵ Id.

¹⁶⁶ NAICS code 517210. See <http://www.census.gov/cgi-bin/ssd/naics/naicsrch>.

¹⁶⁷ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

¹⁶⁸ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

¹⁶⁹ Trends in Telephone Service, at Table 5.3.

¹⁷⁰ Id.

16. **Television Broadcasting.** This Economic Census category “comprises establishments primarily engaged in broadcasting images together with sound. These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public.”¹⁷¹ These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for Television Broadcasting firms: those having \$38.5 million or less in annual receipts.¹⁷² The 2012 Economic Census reports that 751 television broadcasting firms operated during that year. Of that number, 656 had annual receipts of less than \$25 million per year. Based on that Census data we conclude that a majority of firms that operate television stations are small. The Commission has estimated the number of licensed commercial television stations to be 1,387.¹⁷³ In addition, according to Commission staff review of the BIA Advisory Services, LLC’s Media Access Pro Television Database on March 28, 2012, about 950 of an estimated 1,300 commercial television stations (or approximately 73 percent) had revenues of \$14 million or less.¹⁷⁴ We therefore estimate that the majority of commercial television broadcasters are small entities.

17. In assessing whether a business concern qualifies as small under the above definition, business (control) affiliations¹⁷⁵ must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, an element of the definition of “small business” is that the entity not be dominant in its field of operation. We are unable at this time to

¹⁷¹ U.S. Census Bureau, 2012 NAICS code Economic Definitions, <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

¹⁷² 13 CFR 121.201, NAICS code 515120.

¹⁷³ See FCC News Release, “Broadcast Station Totals as of December 31, 2011,” dated January 6, 2012; http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0106/DOC-311837A1.pdf.

¹⁷⁴ We recognize that BIA’s estimate differs slightly from the FCC total given supra.

¹⁷⁵ “[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has to power to control both.” 13 CFR 21.103(a)(1).

define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive to that extent.

18. In addition, the Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 396.¹⁷⁶ These stations are non-profit, and therefore considered to be small entities.¹⁷⁷ There are also 2,528 low power television stations, including Class A stations (LPTV).¹⁷⁸ Given the nature of these services, we will presume that all LPTV licensees qualify as small entities under the above SBA small business size standard.

19. **Radio Broadcasting.** This Economic Census category “comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.”¹⁷⁹ The SBA has established a small business size standard for this category, which is: such firms having \$38.5 million or less in annual receipts.¹⁸⁰ U.S. Census data for 2012 show that 2,849 radio station firms operated during that year.¹⁸¹ Of that number, 2,806 operated with annual receipts of less than \$25 million per year.¹⁸² According to Commission staff review of BIA Advisory Services, LLC’s Media Access Pro Radio Database on March 28, 2012, about 10,759 (97%) of 11,102 commercial radio stations had revenues of \$38.5 million or less. Therefore, the majority of such entities are small entities.

¹⁷⁶ See FCC News Release, “Broadcast Station Totals as of December 31, 2011,” dated January 6, 2012; http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0106/DOC-311837A1.pdf.

¹⁷⁷ See generally 5 U.S.C. 601(4), (6).

¹⁷⁸ See FCC News Release, “Broadcast Station Totals as of December 31, 2011,” dated January 6, 2012; http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0106/DOC-311837A1.pdf.

¹⁷⁹ <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

¹⁸⁰ 13 CFR 121.201, NAICS code 515112.

¹⁸¹ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

¹⁸² http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

20. In assessing whether a business concern qualifies as small under the above size standard, business affiliations must be included.¹⁸³ In addition, to be determined to be a “small business,” the entity may not be dominant in its field of operation.¹⁸⁴ It is difficult at times to assess these criteria in the context of media entities, and our estimate of small businesses may therefore be over-inclusive.

21. **Cable Television and other Subscription Programming.** This industry comprises establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature, e.g., limited format, such as news, sports, education, or youth-oriented. These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers.¹⁸⁵ The SBA has established a size standard for this industry of \$38.5 million or less. Census data for 2012 shows that there were 367 firms that operated that year.¹⁸⁶ Of this total, 319 operated with annual receipts of less than \$25 million.¹⁸⁷ Thus under this size standard, the majority of firms offering cable and other program distribution services can be considered small and may be affected by rules proposed in this NPRM.

22. **Cable Companies and Systems.** The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission’s rules, a “small cable company” is one serving 400,000 or fewer subscribers nationwide.¹⁸⁸ Industry data indicate that there are

¹⁸³ “Concerns and entities are affiliates of each other when one controls or has the power to control the other, or a third party or parties controls or has the power to control both. It does not matter whether control is exercised, so long as the power to control exists.” 13 CFR 121.103(a)(1) (an SBA regulation).

¹⁸⁴ 13 CFR 121.102(b) (an SBA regulation).

¹⁸⁵ <https://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

¹⁸⁶ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

¹⁸⁷ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US-51SSSZ5&prodType=Table.

¹⁸⁸ 47 CFR 76.901(e).

currently 4,600 active cable systems in the United States.¹⁸⁹ Of this total, all but ten cable operators nationwide are small under the 400,000-subscriber size standard.¹⁹⁰ In addition, under the Commission's rate regulation rules, a "small system" is a cable system serving 15,000 or fewer subscribers.¹⁹¹ Current Commission records show 4,600 cable systems nationwide.¹⁹² Of this total, 3,900 cable systems have less than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records.¹⁹³ Thus, under this standard as well, the Commission estimates that most cable systems are small entities.

23. **Cable System Operators (Telecom Act Standard).** The Communications Act also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000."¹⁹⁴ There are approximately 52,403,705 cable video subscribers in the United States today.¹⁹⁵ Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate.¹⁹⁶ Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard.¹⁹⁷ The Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual

¹⁸⁹ August 15, 2015 Report from the Media Bureau based on data contained in the Commission's Cable Operations and Licensing System (COALS). See www.fcc.gov/coals.

¹⁹⁰ See SNL KAGAN at www.snl.com/interactivex/top_cableMSOs.aspx?period2015Q1&sortcol=subscribersbasic&sortorder=desc.

¹⁹¹ 47 CFR 76.901(c).

¹⁹² See footnote 2, *supra*.

¹⁹³ August 5, 2015 report from the Media Bureau based on its research in COALS. See www.fcc.gov/coals.

¹⁹⁴ 47 CFR 76.901 (f) and notes ff. 1, 2, and 3.

¹⁹⁵ See SNL KAGAN at www.snl.com/interactivex/MultichannelIndustryBenchmarks.aspx.

¹⁹⁶ 47 CFR 76.901(f) and notes ff. 1, 2, and 3.

¹⁹⁷ See SNL KAGAN at www.snl.com/Interactivex/TopCableMSOs.aspx.

revenues exceed \$250 million.¹⁹⁸ Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

24. **Direct Broadcast Satellite (DBS) Service.** DBS Service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic dish antenna at the subscriber's location. DBS is now included in SBA's economic census category "Wired Telecommunications Carriers." The Wired Telecommunications Carriers industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VOIP services, wired (cable) audio and video programming distribution; and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.¹⁹⁹ The SBA determines that a wireline business is small if it has fewer than 1500 employees.²⁰⁰ Census data for 2012 indicate that 3,117 wireline companies were operational during that year. Of that number, 3,083 operated with fewer than 1,000 employees.²⁰¹ Based on that data, we conclude that the majority of wireline firms are small under the applicable standard. However, currently only two entities provide DBS service, which requires a great

¹⁹⁸ The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to 47 CFR 76.901(f) of the Commission's rules. See 47 CFR 76.901(f).

¹⁹⁹ <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

²⁰⁰ NAICs code 517110; 13 CFR 121.201.

²⁰¹ http://factfinder.census.gov/faces/tableservices.jasf/pages/productview.xhtml?pid=ECN_2012_US.51SSSZ4&prodType=table.

deal of capital for operation: AT&T and DISH Network.²⁰² AT&T and DISH Network each report annual revenues that are in excess of the threshold for a small business. Accordingly, we must conclude that DBS service is provided only by large firms.

25. **All Other Telecommunications.** “All Other Telecommunications” is defined as follows: This U.S. industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or Voice over Internet Protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.²⁰³ The SBA has developed a small business size standard for “All Other Telecommunications,” which consists of all such firms with gross annual receipts of \$32.5 million or less.²⁰⁴ For this category, census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than \$25 million.²⁰⁵ Thus, a majority of “All Other Telecommunications” firms potentially affected by the proposals in the NPRM can be considered small.

26. **RespOrgs.** Responsible Organizations, or RespOrgs, are entities chosen by toll free subscribers to manage and administer the appropriate records in the toll free Service Management System for the toll free subscriber.²⁰⁶ Although RespOrgs are often wireline carriers, they can also include non-carrier entities. Therefore, in the definition herein of RespOrgs, two categories are presented, i.e., Carrier RespOrgs and Non-Carrier RespOrgs.

²⁰² See 15th Annual Video Competition Report, 28 FCC Rcd at 1057, Section 27.

²⁰³ <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

²⁰⁴ 13 CFR 121.201; NAICS code 517919.

²⁰⁵ http://factfinder.census.gov/faces/tableservices.jasf/pages/productview.xhtml?pid=ECN_2012_US.51SSSZ4&prodType=table.

²⁰⁶ See 47 CFR 52.101(b).

27. **Carrier RespOrgs.** Neither the Commission, the U.S. Census, nor the SBA have developed a definition for Carrier RespOrgs. Accordingly, the Commission believes that the closest NAICS code-based definitional categories for Carrier RespOrgs are Wired Telecommunications Carriers,²⁰⁷ and Wireless Telecommunications Carriers (except satellite).²⁰⁸

28. The U.S. Census Bureau defines **Wired Telecommunications Carriers** as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.²⁰⁹ The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.²¹⁰ Census data for 2012 show that there were 3,117 Wired Telecommunications Carrier firms that operated for that entire year. Of that number, 3,083 operated with less than 1,000 employees.²¹¹ Based on that data, we conclude that the majority of Carrier RespOrgs that operated with wireline-based technology are small.

29. The U.S. Census Bureau defines **Wireless Telecommunications Carriers (except satellite)** as establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves, such as cellular services, paging services, wireless internet

²⁰⁷ 13 CFR 121.201, NAICS code 517110.

²⁰⁸ Id.

²⁰⁹ <http://www.census.gov/cgi-bin/sssd/naics.naicsrch>.

²¹⁰ 13 CFR 120.201, NAICS code 517110.

²¹¹ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.

access, and wireless video services.²¹² The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.²¹³ Census data for 2012 show that 967 Wireless Telecommunications Carriers operated in that year. Of that number, 955 operated with less than 1,000 employees.²¹⁴ Based on that data, we conclude that the majority of Carrier RespOrgs that operated with wireless-based technology are small.

30. **Non-Carrier RespOrgs.** Neither the Commission, the U.S. Census, nor the SBA have developed a definition of Non-Carrier RespOrgs. Accordingly, the Commission believes that the closest NAICS code-based definitional categories for Non-Carrier RespOrgs are “Other Services Related to Advertising”²¹⁵ and “Other Management Consulting Services.”²¹⁶

31. The U.S. Census defines **Other Services Related to Advertising** as comprising establishments primarily engaged in providing advertising services (except advertising agency services, public relations agency services, media buying agency services, media representative services, display advertising services, direct mail advertising services, advertising material distribution services, and marketing consulting services).²¹⁷ The SBA has established a size standard for this industry as annual receipts of \$15 million dollars or less.²¹⁸ Census data for 2012 show that 5,804 firms operated in this industry for the entire year. Of that number, 5,249 operated with annual receipts of less than \$10 million.²¹⁹ Based on that data we conclude that the majority of Non-Carrier RespOrgs who provide toll-free number (TFN)-related advertising services are small.

²¹² <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

²¹³ 13 CFR 120.201, NAICS code 517120.

²¹⁴ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.

²¹⁵ 13 CFR 120.201, NAICS code 541890.

²¹⁶ 13 CFR 120.201, NAICS code 541618.

²¹⁷ <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

²¹⁸ 13 CFR 120.201, NAICS code 541890.

²¹⁹ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.

32. The U.S. Census defines **Other Management Consulting Services** as establishments primarily engaged in providing management consulting services (except administrative and general management consulting; human resources consulting; marketing consulting; or process, physical distribution, and logistics consulting). Establishments providing telecommunications or utilities management consulting services are included in this industry.²²⁰ The SBA has established a size standard for this industry of \$15 million dollars or less.²²¹ Census data for 2012 show that 3,683 firms operated in this industry for that entire year. Of that number, 3,632 operated with less than \$10 million in annual receipts.²²² Based on this data, we conclude that a majority of non-carrier RespOrgs who provide TFN-related management consulting services are small.²²³

33. In addition to the data contained in the four (see above) U.S. Census NAICS code categories that provide definitions of what services and functions the Carrier and Non-Carrier RespOrgs provide, Somos, the trade association that monitors RespOrg activities, compiled data showing that as of July 1, 2016 there were 23 RespOrgs operational in Canada and 436 RespOrgs operational in the United States, for a total of 459 RespOrgs currently registered with Somos.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

34. This NPRM does not propose any changes to the Commission's current information collection, reporting, recordkeeping, or compliance requirements.

²²⁰ <http://www.census.gov/cgi-bin/sssd/naics.naicsrch>.

²²¹ 13 CFR 120.201, NAICS code 514618.

²²² http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.

²²³ The four NAICS code-based categories selected above to provide definitions for Carrier and Non-Carrier RespOrgs were selected because as a group they refer generically and comprehensively to all RespOrgs.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

35. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.²²⁴

36. This NPRM seeks comment on the Commission's regulatory fee collection for Fiscal Year 2017, as required by Congress each year. Specifically, we ask for comments each year in the Regulatory Flexibility Analysis on how to minimize adverse economic impact, imposed by our proposed rules, on small entities. The regulatory fees proposed in this NPRM do not include any new fee categories. However, the proposal to reduce fees for smaller broadcast entities may provide financial relief to smaller entities if it is adopted. The proposal to increase the de minimis threshold from \$500 to \$1,000 would, if adopted, allow additional smaller entities to pay no regulatory fees if their annual total amount of fees is no greater than \$1,000. The proposal to allow multiyear licenses to be de minimis based on the total amount of fees owed each year, if adopted, would allow smaller entities with multiyear licenses to pay no regulatory fees depending on the total amount owed each year. Finally, the proposal to exclude certain licenses from regulatory fees may, if adopted, provide financial relief to smaller entities because they would not have to pay regulatory fees for those particular licenses at all.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

37. None.

²²⁴ 5 U.S.C. 603(c)(1)through (c)(4).

VIII. ORDERING CLAUSE

38. Accordingly, **IT IS ORDERED** that, pursuant to section 9 of the Communications Act of 1934, as amended, 47 U.S.C. 159, this Notice of Proposed Rulemaking **IS HEREBY ADOPTED**.

FEDERAL COMMUNICATIONS COMMISSION

Katura Jackson

Federal Register Liaison Officer.

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